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No. 37] NEW DELHI, SEPTEMBER 4—SEPTEMBER 10, 2011, SATURDAY/BHADRA 13—BHADRA 19, 1933

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 2 सितम्बर, 2011

का.आ. 2386.—केंद्रीय सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मध्य प्रदेश राज्य सरकार, गृह विभाग, मंत्रालय, भोपाल की दिनांक 20 अगस्त, 2011 की अधिसूचना सं. एफ. 12-72/2011/बी-1(2) द्वारा प्राप्त सहमति से कुमारी शैला मसूद की हत्या के संबंध में पुलिस स्टेशन कोह-ए-फिजा जिला भोपाल में पंजीकृत भारतीय दंड संहिता, 1860 (1860 का अधिनियम सं. 45) की धारा 302 के अधीन अपराध सं. 533/2011 तथा उपर्युक्त उल्लिखित अपराध के संबंध में या उससे सम्बद्ध प्रयास, दुष्प्रेरण तथा षडयंत्र तथा उसी संव्यवहार के क्रम में या उन्हीं तथ्यों से उद्भूत किन्हीं अन्य अपराध या अपराधों का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार सम्पूर्ण मध्य प्रदेश राज्य के संबंध में करती है।

[फा. सं. 228/56/2011-एवीडी-II]

राजीव जैन, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES
AND PENSIONS

(Department of Personnel and Training)

New Delhi, the 2nd September, 2011

S.O. 2386.—In exercise of the powers conferred by sub-section (1) of Section 5 read with Section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Madhya Pradesh, Home Department, Mantralaya, Bhopal vide notification No. F 12-72/2011-B-1(Two) dated 20th August, 2011, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of the Madhya Pradesh for investigation of Crime No. 533/2011 under Section 302 of Indian Penal Code, 1860 (Act No. 45 of 1860) registered at Police Station Koh-E-Fiza District Bhopal relating to murder of Ms. Shaila Masood and attempt, abetment and conspiracy in relation to or in connection with the above mentioned offence and any other offence or offences committed in course of the same transaction or arising out of the same facts.

[F. No. 228/56/2011-AVD-II]

RAJIV JAIN, Under Secy.

वित्त मंत्रालय

(वित्तीय सेवाएं विभाग)

नई दिल्ली, 24 अगस्त, 2011

का.आ. 2387.—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3 के उप-खंड (1) और खंड 8 के उप-खंड (1) के साथ पठित, बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उप-धारा (3) के खंड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करके, एतद्वारा, बैंक ऑफ इंडिया के महाप्रबंधक श्री सुरेश कुमार जैन (जन्म तिथि 5-5-1954) को, 1-9-2011 को अथवा उसके पश्चात् उनके पदभार ग्रहण करने की तारीख से 31-05-2014 तक अर्थात् उनकी अधिवर्षिता की तारीख तक अथवा अगले आदेशों तक, जो भी पहले हो, यूनियन बैंक ऑफ इंडिया के कार्यपालक निदेशक के रूप में नियुक्त करती है।

[फा. सं. 4/5/2010-बीओ-I]

समीर के. सिन्हा, निदेशक

MINISTRY OF FINANCE

(Department of Financial Services)

New Delhi, the 24th August, 2011

S.O. 2387.—In exercise of the powers conferred by clause (a) of sub-section (3) of Section 9 of The Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub-clause (1) of clause 3 and sub-clause (1) of clause 8 of The Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government after consultation with the Reserve Bank of India, hereby appoints Shri Suresh Kumar Jain (DoB : 05-05-1954), General Manager, Bank of India as Executive Director, Union Bank of India, with effect from the date of his taking over charge of the post on or after 1-9-2011 till 31-5-2014, i.e. the date of his superannuation or until further orders, whichever is earlier.

[F.No. 4/5/2010-BO-I]

SAMIR K. SINHA, Director

नई दिल्ली, 29 अगस्त, 2011

का.आ. 2388.—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 9(2) के उप-खंड (ख) के साथ पठित, बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उप-धारा 3(छ) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, भारतीय रिजर्व बैंक से परामर्श करने के पश्चात्, श्री अमरजीत चोपड़ा (जन्म तिथि 27-6-1952) को, उनकी नियुक्ति की अधिसूचना की तिथि से तीन वर्षों की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, इंडियन बैंक के निदेशक मण्डल में सनदी लेखाकार श्रेणी में अंशकालिक गैर-सरकारी निदेशक के रूप में नामित करती है।

[फा. सं. 6/25/2010-बीओ-I]

समीर कुमार सिन्हा, निदेशक

New Delhi, the 29th August, 2011

S.O. 2388.—In exercise of the powers conferred by sub-section 3(g) of Section 9 of The Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980

read with sub-clause (b) of clause 9(2) of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government after consultation with the Reserve Bank of India, hereby nominates Shri Amarjit Chopra (DoB : 27-6-1952) as part-time non-official Director under Chartered Accountant category on the Board of Indian Bank, for a period of three years from the date of notification of his appointment or until further orders, whichever is earlier.

[F.No. 6/25/2010-BO-I]

SAMIR K. SINHA, Director

नई दिल्ली, 1 सितम्बर, 2011

का. आ. 2389.—भारतीय रिजर्व बैंक अधिनियम, 1934 (1934 का 2) की धारा 9 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, श्री ए. नवीन भंडारी (जन्म तिथि 20-5-1951) को उनकी नियुक्ति की अधिसूचना की तिथि से चार वर्षों की अवधि के लिए अथवा अगले आदेश होने तक, जो भी पहले हो, भारतीय रिजर्व बैंक के उत्तरी स्थानीय बोर्ड में अंशकालिक गैर-सरकारी सदस्य के रूप में नियुक्त करती है।

[फा. सं. 1/3/2010-बीओ-I]

विजय मल्होत्रा, अवर सचिव

New Delhi, the 1st September, 2011

S.O. 2389.—In exercise of the powers conferred by sub-section (1) of Section 9 of the Reserve Bank of India Act, 1934 (2 of 1934), the Central Government hereby appoints Shri A. Naveen Bhandary (DoB : 20-5-1951) as part-time non-official Member on the Northern Local Board of the Reserve Bank of India, for a period of four years from the date of notification of his appointment or until further orders, whichever is earlier.

[F.No. 1/3/2010-BO-I]

VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 2 सितम्बर, 2011

का.आ. 2390.—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3, खण्ड 5, खण्ड 6, खण्ड 7 और खंड 8 के उपखंड (1) के साथ पठित, बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उप-धारा (3) के खंड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करके, एतद्वारा, इंडियन ओवरसीज बैंक की कार्यपालक निदेशक श्रीमती नूपुर मित्रा (जन्म तिथि 08-12-1952) को 01-11-2011 को अथवा उसके पश्चात् उनके पदभार ग्रहण करने की तारीख से 31-12-2012 तक अर्थात् उनकी अधिवर्षिता की तारीख तक अथवा अगले आदेशों तक, इनमें से जो भी पहले हो, देना बैंक के अध्यक्ष एवं प्रबंध निदेशक के रूप में नियुक्त करती है।

[फा. सं. 4/4/2010-बीओ-I]

विजय मल्होत्रा, अवर सचिव

New Delhi, the 2nd September, 2011

S.O. 2390.—In exercise of the powers conferred by clause (a) of sub-section (3) of Section 9 of The Banking Companies (Acquisition & Transfer of Undertakings) Act, 1970/1980 read with sub-clause (1) of clause 3, clause 5,

clause 6, clause 7 and sub-clause (1) of clause 8 of the Nationalised Banks (Management & Miscellaneous Provisions) Scheme, 1970/1980, the Central Government after consultation with the Reserve Bank of India, hereby appoints Smt. Nupur Mitra (DoB : 08-12-1952), Executive Director, Indian Overseas Bank as the Chairman and Managing Director, Dena Bank from the date of her taking over charge of the post on or after 01-11-2011 till 31-12-2012, i.e. the date of her superannuation or until further orders, whichever is earlier.

[F. No. 4/4/2010-BO.I]

VIJAY MALHOTRA, Under Secy.

मुख्य आयकर आयुक्त का कार्यालय

जयपुर, 26 अगस्त, 2011

सं. 05/2011-12

का.आ. 2391.—आयकर नियम, 1962 के नियम 2सीए के साथ पठनीय आयकर अधिनियम, 1961 (1961 का 43वां) की धारा 10 के खण्ड (23 सी) की उप-धारा (vi) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मुख्य आयकर आयुक्त, जयपुर एतद्वारा निर्धारण वर्ष 2010-11 एवं आगे के लिए कथित धारा के उद्देश्य से "इ इ एण्ड चैरिटेबल सोसायटी, जयपुर (स्थाई खाता संख्या AAATE 2861M)" को स्वीकृति देते हैं।

2. बशर्ते कि समिति आयकर नियम 1962 के नियम, 2सीए के साथ पठनीय आयकर अधिनियम, 1961 की धारा 10 के उप-खण्ड (23 सी) की उप-धारा (vi) के प्रावधानों के अनुरूप कार्य करे। [क्रमांक: मुआआ/अआआ/(मु.)/जय/ 10(23सी) (vi)/11-12/2180]

मुकेश भान्ती, मुख्य आयकर आयुक्त

OFFICE OF THE CHIEF COMMISSIONER OF INCOME-TAX

Jaipur, the 26th August, 2011

No. 05/2011-12

S.O. 2391.—In exercise of the powers conferred by sub-clause (vi) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961) read with rule 2CA of the Income-tax Rules, 1962 the Chief Commissioner of Income-tax, Jaipur hereby approves "E E & Charitable Society, Jaipur (PAN-AAATE 2861M)" for the purpose of said Section from A. Y. 2010-11 and onwards.

2. Provided that the society conforms to and complies with the provisions of sub-clause (vi) of clause (23C) of Section 10 of the Income-tax Act, 1961 read with rule 2CA of the Income-tax Rules, 1962.

[No. CCIT/JPR/Addl. CIT(Hqrs.)/10(23C)(vi)/2011-12/2180] MUKESH BHANTI, Chief Commissioner of Income-tax

स्वास्थ्य एवं परिवार कल्याण मंत्रालय

(स्वास्थ्य एवं परिवार कल्याण विभाग)

नई दिल्ली, 19 अगस्त, 2011

का.आ. 2392.—भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) की धारा 11 की उप-धारा (2) द्वारा प्रदत्त शक्तियों

का प्रयोग करते हुए, केन्द्र सरकार, भारतीय आयुर्विज्ञान परिषद् से परामर्श करने के बाद, एतद्वारा उक्त अधिनियम की प्रथम अनुसूची में निम्नलिखित और संशोधन करती है अर्थात्:-

उक्त अनुसूची में -

(क) "केरल विश्वविद्यालय" के समक्ष शीर्षक 'मान्यता प्राप्त चिकित्सा अर्हता, [इसके बाद कॉलम (2) के रूप में संदर्भित] के अन्तर्गत 'शीर्षक पंजीकरण के लिए संक्षेपण' [इसके बाद कॉलम (3) के रूप में संदर्भित] के अन्तर्गत अंतिम प्रविष्टि एवं उससे संबंधित प्रविष्टि के बाद निम्नलिखित अंतःस्थापित किया जाएगा, अर्थात् :-

(2)	(3)
"डॉक्टर ऑफ मेडिसिन (भौतिक चिकित्सा एवं पुनर्वास)"	एमडी (पीएमआर) (यह एक मान्यताप्राप्त चिकित्सा अर्हता होगी जब यह सरकारी मेडिकल कालेज, तिरुवनन्तपुरम, केरल में प्रशिक्षित किए जा रहे विद्यार्थियों के संबंध में केरल विश्वविद्यालय द्वारा वर्ष 1986 में अथवा उसके पश्चात् प्रदान की गई हो)
"भौतिक चिकित्सा एवं पुनर्वास में डिप्लोमा"	डीपीएमआर (यह एक मान्यताप्राप्त चिकित्सा अर्हता होगी जब यह सरकारी मेडिकल कालेज, तिरुवनन्तपुरम, केरल में प्रशिक्षित किए जा रहे विद्यार्थियों के संबंध में केरल विश्वविद्यालय द्वारा वर्ष 1976 में अथवा उसके पश्चात् प्रदान की गई हो)

सभी नोट करें कि: 1. स्नातकोत्तर पाठ्यक्रम को प्रदान की गई मान्यता अधिकतम 5 वर्ष तक की अवधि के लिए होगी जिसके पश्चात् इसे नवीकृत करवाना होगा।

2. उप-खण्ड 4 में यथापेक्षित मान्यता को समय से नवीकृत न करवाने के परिणामस्वरूप संबंधित स्नातकोत्तर पाठ्यक्रम में दाखिले निरपवाद रूप से बन्द हो जाएंगे।

[सं. यू. 12012/55/2011-एमई(पी-II)]

अनिता त्रिपाठी, अवर सचिव

MINISTRY OF HEALTH AND FAMILY WELFARE

(Department of Health and Family Welfare)

New Delhi, the 19th August, 2011

S.O. 2392. In exercise of the powers conferred by sub-section(2) of the Section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consulting the Medical Council of India, hereby makes the following further amendments in the First Schedule to the said Act, namely :

In the said Schedule —

(a) against "Kerala University" under the heading 'Recognised Medical Qualification' [hereinafter referred to as column (2)], after the last entry and entry relating

thereto under the heading 'Abbreviation for Registration' [hereinafter referred to as column (3)], the following shall be inserted, namely :—

(2)	(3)
"Doctor of Medicine (Physical Medicine & Rehabilitation)"	MD(PMR) (This shall be a recognised medical qualification when granted by Kerala University in respect of students being trained at Govt. Medical College, Thiruvananthapuram, Kerala on or after 1986.)
"Diploma in Physical Medicine & Rehabilitation"	DPMR (This shall be a recognised medical qualification when granted by Kerala University in respect of students being trained at Govt. Medical College, Thiruvananthapuram, Kerala on or after 1976.)

Note to all: 1. The recognition so granted to a Postgraduate Course shall be for a maximum period of 5 years, upon which it shall have to be renewed.
2. Failure to seek timely renewal of recognition as required in sub-clause-4 shall invariably result in stoppage of admissions to the concerned Postgraduate Course.

[No. U.12012/55/2011-ME(P.II)]

ANITA TRIPATHI, Under Secy.

नई दिल्ली, 19 अगस्त, 2011

का.आ. 2393.—भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) की धारा 11 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार, भारतीय आयुर्विज्ञान परिषद् से परामर्श करने के बाद, एतद्द्वारा उक्त अधिनियम की प्रथम अनुसूची में निम्नलिखित और संशोधन करती है, अर्थात्:—

उक्त अनुसूची में —

(क) " ए.पी. सिंह विश्वविद्यालय, मध्य प्रदेश" के समक्ष शीर्षक 'मान्यताप्राप्त चिकित्सा अर्हता' [इसके बाद कॉलम (2) के रूप में संदर्भित] के अन्तर्गत शीर्षक 'पंजीकरण के लिए संक्षेपण' [इसके बाद कॉलम (3) के रूप में संदर्भित] के अंतर्गत अंतिम प्रविष्टि एवं उससे संबंधित प्रविष्टि के बाद निम्नलिखित अंतःस्थापित किया जाएगा, अर्थात् :—

(2)	(3)
"मास्टर ऑफ सर्जरी (अस्थिरोग विज्ञान)"	एमएस (ओर्थो) (यह एक मान्यताप्राप्त चिकित्सा अर्हता होगी जब यह शैक्षणिक वर्ष 1980-81 से 2008-09 के बीच दाखिल और एस.एस. मेडिकल कालेज, रेवा,

(2)

(3)

"अस्थिरोगविज्ञान में डिप्लोमा"

मध्य प्रदेश में प्रशिक्षित किए जा रहे विद्यार्थियों के संबंध में ए.पी. सिंह विश्वविद्यालय, मध्य प्रदेश द्वारा प्रदान की गई हो)

डी (आर्थो)

(यह एक मान्यताप्राप्त चिकित्सा अर्हता होगी जब यह सरकारी शैक्षणिक वर्ष 1980-81 से 2008-09 के बीच दाखिल और एस.एस. मेडिकल कालेज, रेवा, मध्य प्रदेश में प्रशिक्षित किए जा रहे विद्यार्थियों के संबंध में ए.पी. सिंह विश्वविद्यालय, मध्य प्रदेश द्वारा प्रदान की गई हो)

[सं. सी. 18018/17/2009-एमई(पी-II)]

अनिता त्रिपाठी, अवर सचिव

New Delhi, the 19th August, 2011

S.O. 2393.—In exercise of the powers conferred by sub-section(2) of the Section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consulting the Medical Council of India, hereby makes the following further amendments in the First Schedule to the said Act, namely :—

In the said Schedule—

(a) against "A. P. Singh University, Madhya Pradesh" under the heading 'Recognised Medical Qualification' [hereinafter referred to as column (2)], after the last entry and entry relating thereto under the heading 'Abbreviation for Registration' [hereinafter referred to as column (3)], the following shall be inserted, namely :—

(2)	(3)
"Master of Surgery (Orthopaedics)"	MS (Ortho.) (This shall be a recognised medical qualification when granted by A. P. Singh University, Madhya Pradesh in respect of students admitted between the academic year 1980-81 to 2008-09 and being trained at S.S. Medical College, Rewa, Madhya Pradesh.)
"Diploma in Orthopaedics"	D. Ortho. (This shall be a recognised medical qualification when granted by A. P. Singh University, Madhya Pradesh in respect of students admitted between the academic year 1980-81 to 2008-09 and being trained at S.S. Medical College, Rewa, Madhya Pradesh.)

[No.C.18018/17/2009-ME(P-II)]

ANITA TRIPATHI, Under Secy.

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

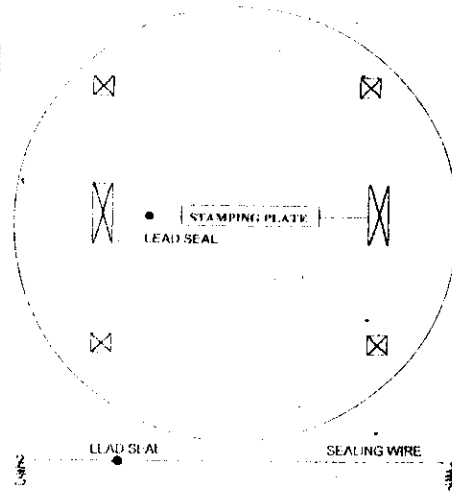
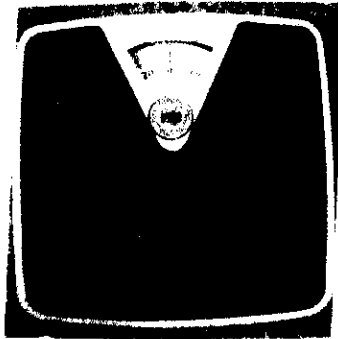
(उपभोक्ता मामले विभाग)

नई दिल्ली, 15 अप्रैल, 2011

का.आ. 2394.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स जय किशन इंडस्ट्रिज, 21/2, जोनी मंडी, जोहन्स मिल नं. 4, आगरा-282004 द्वारा विनिर्मित साधारण यथार्थता (यथार्थता वर्ग-III) वाले “जेकेपी” शृंखला के अस्वचालित तोलन उपकरण (मैकेनिकल व्यक्ति तोलन मशीन) के मॉडल का, जिसके ब्राण्ड का नाम “जे.के.” है, (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/10/45 समनुदेशित किया गया है, अनुमोदन प्रमाण पत्र जारी करती है।

उक्त मॉडल एक स्प्रिंग सिद्धांत पर आधारित अस्वचालित तोलन उपकरण (मैकेनिकल व्यक्ति तोलन मशीन) है। जिसकी अधिकतम क्षमता 130 कि.ग्रा. है और न्यूनतम क्षमता 10 कि.ग्रा. है। सत्यापन मापमान अन्तराल (ई) 1 कि.ग्रा. है।



आकृति -2 मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम

मशीन में बायें हाथ की तरफ बाटम में और दायीं हाथ की तरफ टॉप में, अपर और लोअर प्लेट के जरिए अप्रिंग स्टील फ्लेयर्ड रिविट्स लगाए गए हैं। मशीन के कपटपूर्ण उपयोग को रोकने एवं मैकेनिकल असेम्बली की सुरक्षा के लिए बाटम और अपर प्लैटर्न को सील करने के लिए रिविट्स को फ्लेयर्ड किया गया है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम ऊपर दिया गया है।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल का विनिर्माण किया गया है विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के “ई” मान के लिए 100 से 1000 तक के रेंज में सत्यापन मापमान अंतराल (एन) सहित 150 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और “ई” मान $1 \times 10^*$, $2 \times 10^*$ या $5 \times 10^*$, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम 21(42)/2010]

बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

(Department of Consumer Affairs)

New Delhi, the 15th April, 2011

S.O. 2394.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Mechanical Person Weighing Machine) of Ordinary Accuracy (Accuracy class -III) of Series "JKP" and with brand name "J.K." (hereinafter referred to as the said Model), manufactured by M/s Jai Kishan Industries, 21/2, Jeoni Mandi, John's Mill No.4, Agra-282004 and which is assigned the approval mark IND/09/10/45.

The said model is the principal of spring based non-automatic weighing instrument (Mechanical Person Weighing Machine) with a maximum capacity of 130 kg. and minimum capacity of 10 kg. The verification scale interval (e) is 1 kg.

Figure-1 Model

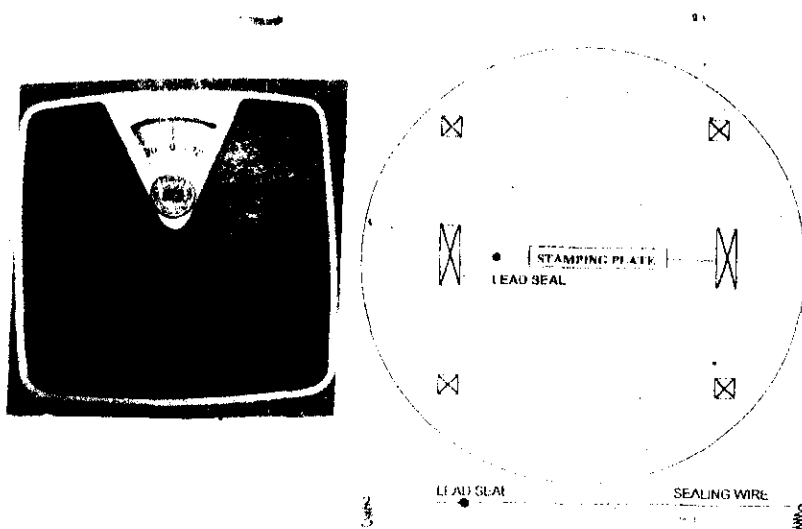


Figure-2 Schematic Diagram of the sealing provision of the model

Spring steel flaired revits will be through in upper and lower plate on the top R.H.S. of the machine and bottom L.H.S. These revits will be flaired to seal the bottom and upper pattern for security of Mechanical assembly to avoid fraudulent use of the machine. A typical schematic diagram of sealing provision of the model is given above.

Further, in exercise of the power conferred by sub-section (12) of Section 36 of the said, Act, the Central Government hereby declares that this certificate of approval of the said Model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 150kg. with verification scale interval (n) in the range of 100 to 1000 for 'e' value of 5g. or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved model has been manufactured.

[F.No.WM-21/(42)/2010]

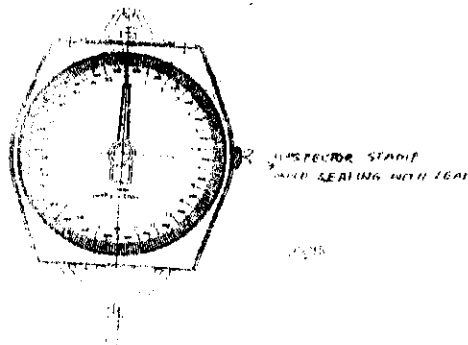
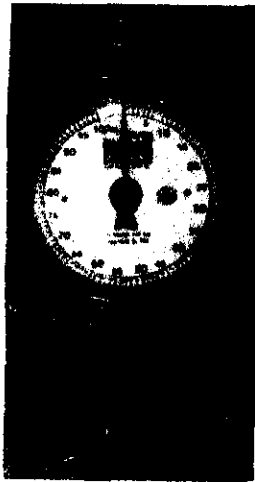
B. N. DIXIT, Director of Legal Metrology

नई दिल्ली, 15 अप्रैल, 2011

का.आ. 2395.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप हैं और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स जय किशन इंडस्ट्रिज, 21/2, जोनी मंडी, जोहन स मिल नं. 4, आगरा-282004 द्वारा विनिर्मित साधारण यथार्थता (यथार्थता वर्ग-III) वाले “जेकेएस” श्रृंखला के एनालाग सूचन सहित अस्वचालित तोलन उपकरण (स्प्रिंग बेलेंस हैंगिंग एवं डायल टाइप) के मॉडल का, जिसके ब्राण्ड का नाम “जे.के” है, (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/10/46 समनुदेशित किया गया है, अनुमोदन प्रमाण पत्र जारी करती है।

उक्त मॉडल स्प्रिंग सिद्धांत पर आधारित मैकेनिकल अस्वचालित तोलन उपकरण (स्प्रिंग बेलेंस हैंगिंग एवं डायल टाइप) है। इसका अधिकतम क्षमता 100 कि.ग्रा. है और न्यूनतम क्षमता 5 कि.ग्रा. है। सत्यापन मापमान अंतराल (ई) 500 ग्रा. है। डायल सूचक पर एनालाग टाइप सूचित करता है।



आकृति -2 मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम

उपकरण की बाड़ी पर दिए गए छेदों में से लीड एंड सीलिंग वायर निकाल कर सीलिंग लगाई जाती है। कपटपूर्ण व्यवहार को रोकने के लिए वेइंग मशीन को खोले जाने से रोकने के लिए सीलिंग लगाई जाती है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल विनिर्माण किया गया है विनिर्मित उसी श्रृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के “ई” मान के लिए 100 से 1,000 तक के रेंज में सत्यापन मापमान अंतराल (एन) सहित 300 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और “ई” मान $1 \times 10^*$, $2 \times 10^*$, $5 \times 10^*$, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम 21(42)/2010]

बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 15th April, 2011

S.O. 2395.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Spring Balance Hanging & Dial Type) with analogue indication of ordinary Accuracy (Accuracy class -III) of Series "JKS" and with brand name "J.K." (hereinafter referred to as the said Model), manufactured by M/s. Jai Kishan Industries, 21/2, Jeoni Mandi, John's Mill No.4, Agra-282 004 and which is assigned the approval mark IND/09/10/46.

The said model is the principal of spring based non-automatic weighing instrument (Spring Balance Hanging & Dial Type) with a maximum capacity of 100 kg. and minimum capacity of 5 kg. The verification scale interval (e) is 500 g. The indication is of analogue type on a dial indicator.

Figure-1 Model

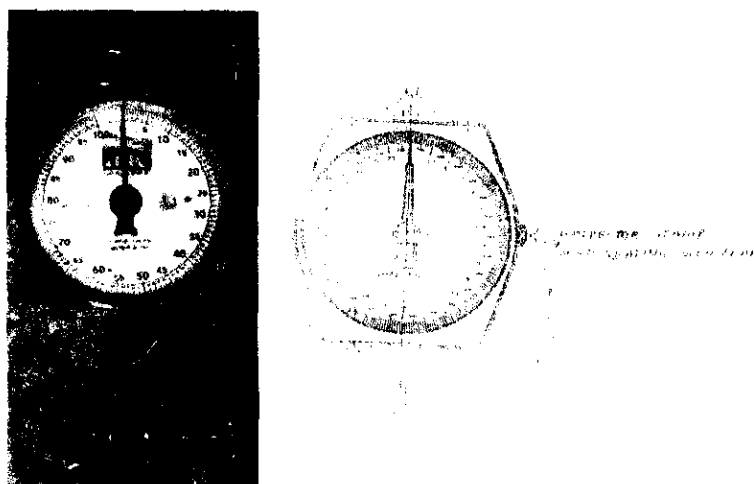


Figure-2 Schematic Diagram of sealing provision of the model

Sealing can be done by applying lead & seal wire through the holes provided on the body of the instruments. Sealing shall be done to prevent opening of the weighing machine for fraudulent practice. A typical schematic diagram of sealing provision of the model is given above.

Further, in exercise of the power conferred by sub-section (12) of Section 36 of the said, Act, the Central Government hereby declares that this certificate of approval of the said Model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 300kg. with verification scale interval (n) in the range of 100 to 1000 for 'e' value of 5g. or more and with 'e' value of 1×10^k , 2×10^k , or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with same materials with which, the approved Model has been manufactured.

[F.No.WM-21(42)/2010]

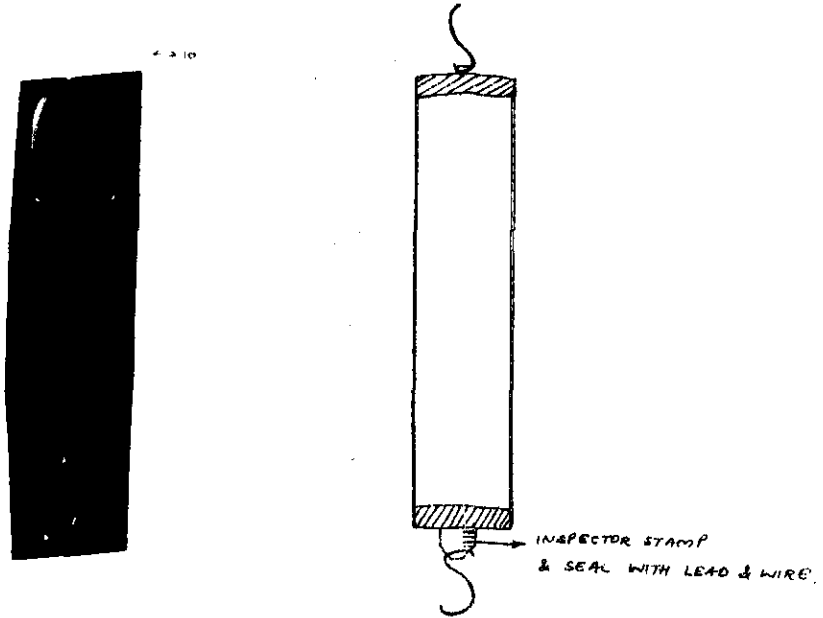
B. N. DIXIT, Director of Legal Metrology

नई दिल्ली, 15 अप्रैल, 2011

का.आ. 2396.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा शक्तियों का प्रयोग करते हुए मैसर्स जय किशन इंडस्ट्रिज, 21/2, जोनी मंडी, जोहन स मिल नं. 4, आगरा-282004 द्वारा विनिर्मित साधारण यथार्थता (यथार्थता वर्ग-III) वाले "जेकेटीबी" शृंखला के अस्वचालित तोलन उपकरण (टबलर तुला-मैकेनीकल टाइप) के मॉडल का, जिसके ब्राण्ड का नाम "जे.के." है, (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/10/47 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है।

उक्त मॉडल एक स्प्रिंग आधारित मैकेनीकल अस्वचालित तोलन उपकरण (टबलर तुला-मैकेनीकल टाइप) है। जिसकी अधिकतम क्षमता 100 कि.ग्रा. और न्यूनतम क्षमता 10 कि.ग्रा. है। सत्यापन मापमान अन्तराल (ई) 1 कि.ग्रा. है। सूक्ष्म एनालाग प्रकार का डायल सूचक पर है।



आकृति -2 मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम

उपकरण की बाडी पर दिए गए छेदों में से लीड एंड सीलिंग वायर निकाल कर सीलिंग लगाई जाती है। कपटपूर्ण व्यवहार को रोकने के लिए वेइंग मशीन को खोले जाने से रोकने के लिए सीलिंग लगाई जाती है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल का विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के "ई" मान के लिए 100 से 1,000 तक के रेंज में सत्यापन मापमान अंतराल (एन) सहित 200 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^3 , 2×10^3 या 5×10^3 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम 21(42)/2011]

बी. एन. दीक्षित, निदेशक, विधिक माप विभाग

New Delhi, the 15th April, 2011

S.O. 2396.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Tubular Balance Mechanical Type) with analogue indication of ordinary Accuracy (Accuracy class -III) of Series "JKTB" and with brand name "J.K." (hereinafter referred to as the said Model), manufactured by M/s. Jai Kishan Industries, 21/2, Jeoni Mandi, John's Mill No.4, Agra-282004 and which is assigned the approval mark IND/09/10/47;

The said model is spring based mechanical non-automatic weighing instrument (Tubular Balance Mechanical Type) with a maximum capacity of 100 kg. and minimum capacity of 10 kg. The verification scale interval (e) is 1 kg. The indication of analogue type on a dial indicator.

Figure-1 Model

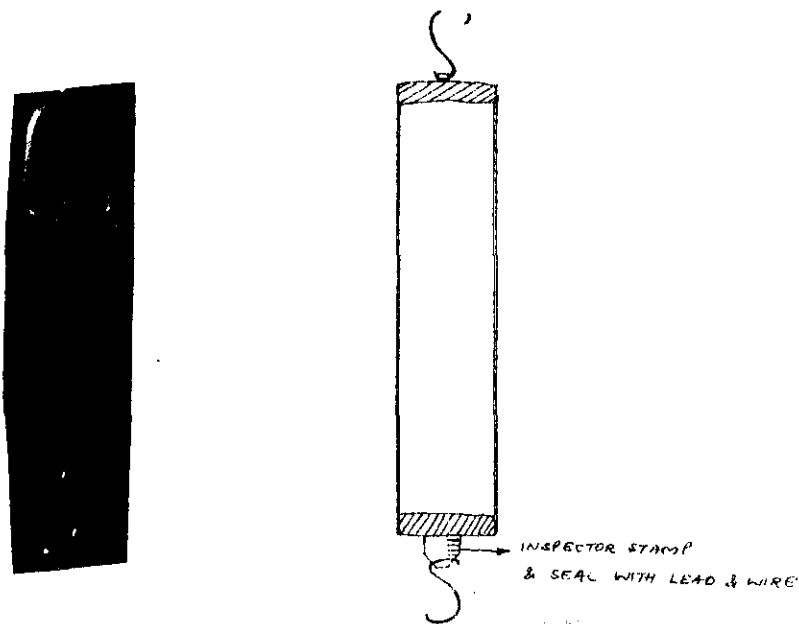


Figure-2 Schematic Diagram of the sealing arrangement

Sealing can be done by applying lead & seal wire through the holes provided on the body of the instruments. Sealing shall be done to prevent opening of the weighing machine for fraudulent practice. A typical schematic diagram of sealing provision of the model is given above.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said Model shall also cover the weighing instrument of similar make, accuracy and performance of same series with maximum capacity up to 200kg. with verification scale interval (n) in the range of 100 to 1000 for 'e' value of 5g. or more and with 'e' value of 1×10^k , 2×10^k , or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved Model has been manufactured.

[E.No.WM-21/(42):2010]

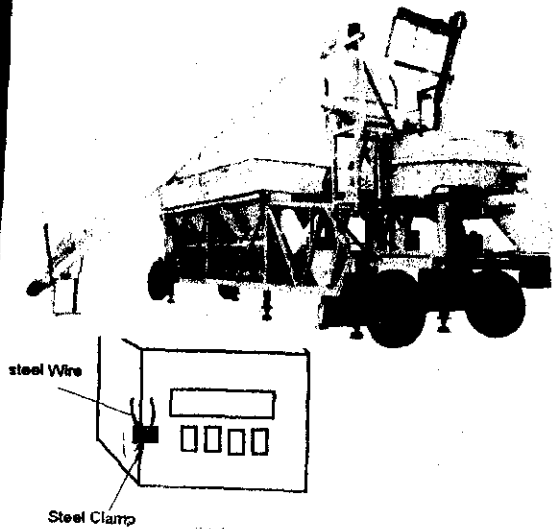
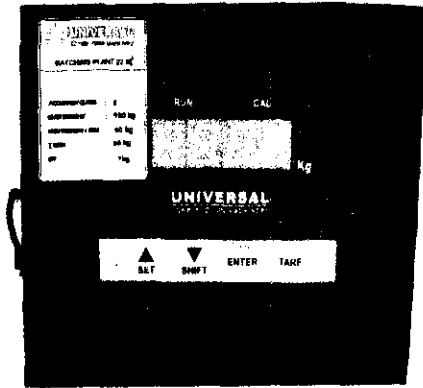
B. N. DIXIT, Director of Legal Metrology

नई दिल्ली, 15 अप्रैल, 2011

का.आ. 2397.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स यूनिवर्सल कंस्ट्रक्शन मशीनरी एंड इक्विपमेंट लि. यूनिवर्सल हाऊस वार्जे जकत नाका, कोथरूड, पुणे-52 महाराष्ट्र द्वारा विनिर्मित यथार्थता वर्ग 2 वाले "22एम³/hr" शृंखला के डिस्कटिन्युअस टोटलाइजिंग स्वचालित तोलन उपकरण (टोटलाइजिंग हुपर व्हीयर) अंकक सूचन सहित, के मॉडल का, जिसके ब्रांड का नाम "बेचिंग प्लांट" है (जिसे इसमें इसके पश्चात उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/10/284 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित डिस्कटिन्युअस टोटलाइजिंग स्वचालित तोलन उपकरण (टोटलाइजिंग हुपर व्हीयर) है। इसकी अधिकतम क्षमता 950 कि.ग्रा. न्यूनतम क्षमता 50 कि.ग्रा. है और Σ न्यूनतम क्षमता 50 कि.ग्रा. है। मापमान अंतराल (डी) 1 कि. ग्रा. है। उपकरण की स्पीड 63 साइकिल/घंटा है इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। एल सी डी/एल ई डी तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत पर कार्य करता है।



आकृति -2 मॉडल का सीलिंग करने का योजनाबद्ध डायग्राम

स्केल की बाडी के छेदों में से सीलिंग वायर निकाल कर सीलिंग की जाती है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम ऊपर दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल का विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जिन की अधिकतम रेंज 50 कि. ग्रा. से 5000 कि.ग्रा. का 'd' मान 5 ग्रा. या उससे अधिक के "ई" मान के लिए 1×10^4 , 2×10^4 , 5×10^4 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम 21(173)/2010]

बी.एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 15th April, 2011

S.O. 2397.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of Discontinuous Totalizing Automatic weighing instrument (Totalizing Hopper Weigher) with digital indication of Accuracy class-2 of series "22M³/hr" and with brand name "BATCHING PLANT" (hereinafter referred to as the said Model), manufactured by M/s. Universal Construction Machinery & Equipment Ltd. "Universal House", Warje Jakat Naka, Kothrud, Pune-52, Maharashtra and which is assigned the approval mark IND/09/10/284;

The said model is a strain gauge type load cell based Discontinuous Totalizing Automatic weighing instrument (Totalizing Hopper Weigher) with a maximum capacity of 950 kg. minimum capacity of 50 kg. and Σ Minimum Capacities of 50 kg. The scale interval (d) is 1kg. The speed of the instrument is 63 cycles/hour. It has a tare device with a 100 percent subtractive retained tare effect. The LCD/LED display indicates the weighing results. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.

Figure-1 Model (Hopper)

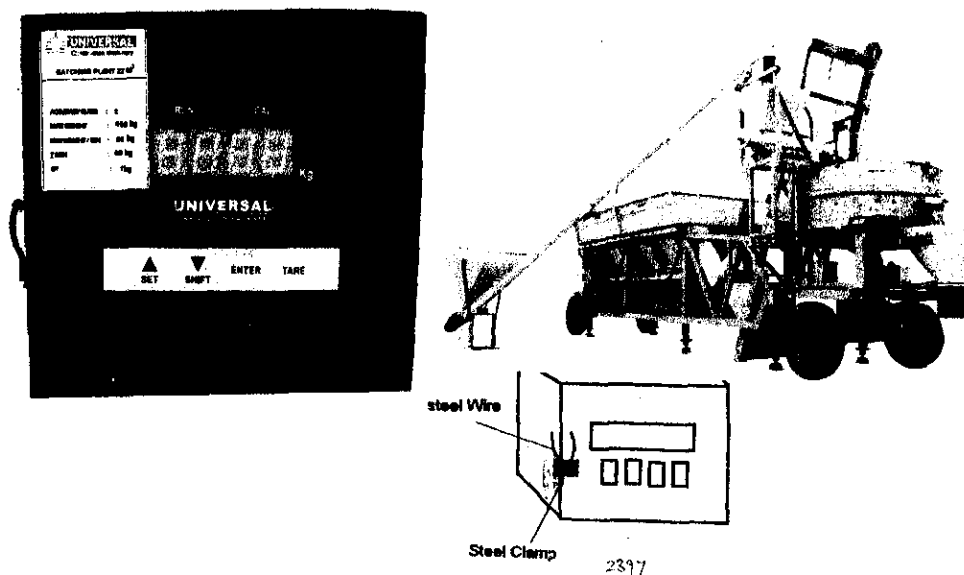


Figure 3 Sealing Diagram of the sealing provision of the model

Sealing is done by passing the sealing wire from the body of the scale of the through holes. A typical schematic diagram of sealing provision of the model is given above. The instrument has external control to calibration.

A dip switch has also been provided in A/D card/mother board to disable access to external calibration.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacities in the range 50 kg. to 5000 kg. for 'd' value of 5 g. or more and with 'e' Value of $1 \times 10^{-2} \times 10^k$, or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No.WM-21/(173)/2010]

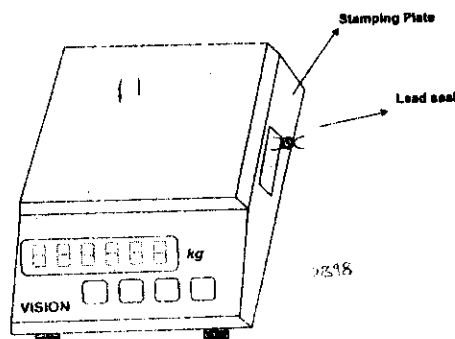
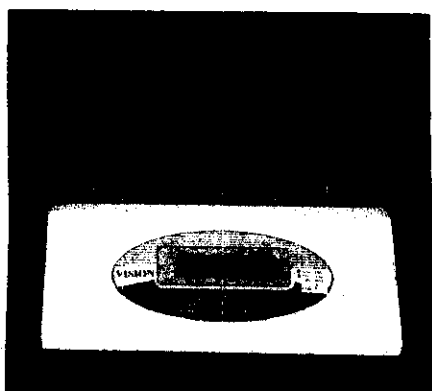
B. N. DIXIT, Director of Legal Metrology

नई दिल्ली, 15 अप्रैल, 2011

का.आ. 2398.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स विजन वे सिस्टम, एल-183, मंगोलपुरी, दिल्ली-110083 द्वारा विनिर्मित उच्च यथार्थता (यथार्थता-II) वाले "वीएसटी" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (टेबलटाप टाइप) के मॉडल का, जिसके ब्रांड का नाम "विजन" है (जिसे इसमें इससे पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/10/226 समनुदेशित किया गया है, अनुमोदन प्रमाण पत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (टेबलटाप टाइप) है। इसकी अधिकतम क्षमता 30 कि.ग्रा. न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अंतराल (ई) 2 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शतप्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत पर कार्य करता है।



आकृति-2 : उपकरण के मॉडल का सीलिंग प्रावधान

स्केल की बाडी के होल्स में से सीलिंग वायर निकालकर सीलिंग की जाती है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम ऊपर दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 1 मि.ग्रा. से 50 मि. ग्रा. तक के "ई" मान के लिए 100 से 50000 तक की रेंज में सत्यापन मापमान अंतराल (एन) और 100 मि.ग्रा. या उससे अधिक के "ई" मान के लिए 5000 से 50,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. तक अधिकतम क्षमता वाले हैं और "ई" मान $1 \times 10^*$, $2 \times 10^*$, $5 \times 10^*$, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(142)/2010]

बी.एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 15th April, 2011

S.O. 2398.—Whereas the Central Government, after considering the report submitted to it by prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-Automatic weighing instrument (Table top type) with digital indication of High Accuracy (Accuracy class-II) of series "VST" and with brand name "VISION" (hereinafter referred to as the said Model), manufactured by M/s. Vision Weigh System, I.-183, Mangolpuri, Delhi-110083 and which is assigned the approval mark IND/09/10/226;

The said model is a strain gauge type load cell based non-automatic weighing instrument (Table Top Type) with a maximum capacity of 30 kg, minimum capacity of 100 g. The verification scale interval (e) is 2g. It has a tare device with a 100 percent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing results. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.

Figure-1

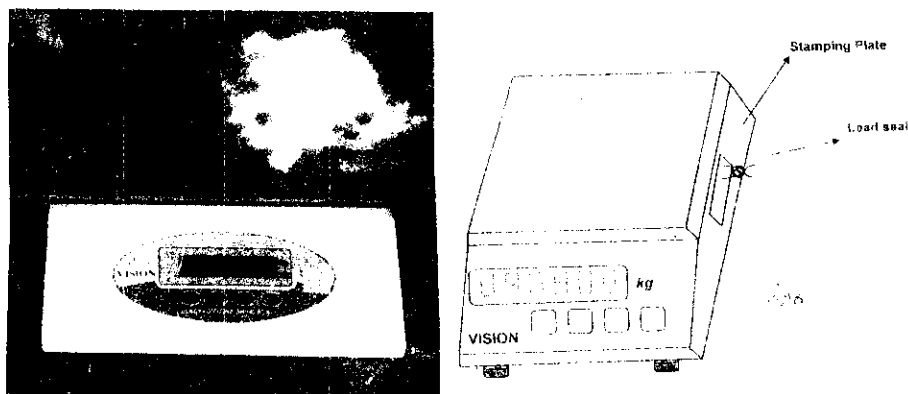


Figure 2 : Schematic Diagram of sealing provision of the model

Sealing is done by passing the sealing wire from the body of the scale through holes. A typical schematic diagram of sealing provision of the model is given above. The instrument has external control to calibration.

A dip switch has also been provided in A/D card/mother board to disable access to external calibration.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 50 kg, with verification scale interval (n) in the range of 100 to 50,000 for 'e' value of 1mg. to 50 mg. and with verification scale interval (n) in the range of 5000 to 50,000 for 'e' value of 100mg or more and with 'e' value of 1×10^k , 2×10^k , or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No.WM-21/(142)/2010]

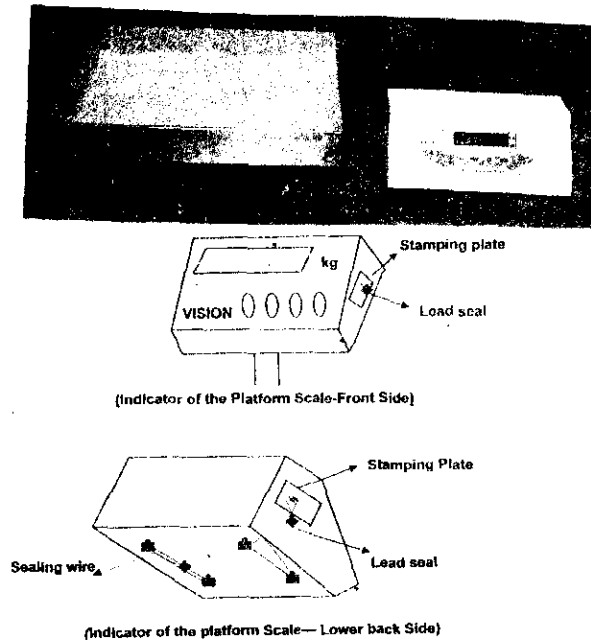
B. N. DIXIT, Director of Legal Metrology

नई दिल्ली, 15 अप्रैल, 2011

का.आ. 2399.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स विजन वे सिस्टम, एल-183, मंगोलपुरी दिल्ली-110083 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता-III) वाले "वी एस पी" शृंखला के सूचन सहित अस्वचालित तोलन उपकरण (प्लेटफार्म टाइप) के मॉडल का, जिसके ब्रांड का नाम "विजन" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/10/227 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वाचालित तोलन उपकरण (प्लेटफार्म टाइप) है। इसकी अधिकतम क्षमता 200 कि.ग्रा. और न्यूनतम क्षमता 400 ग्रा. है। सत्यापन मापमान अंतराल (ई) 20 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत-प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत पर कार्य करता है।



आकृति -2 : मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम

डिस्पले की बाड़ी में से सीलिंग वायर निकालकर डिस्पले के राइट साइड/बैक साइड में सीलिंग की जाती है। सील के साथ जुड़े हुए डिस्पले के बेस प्लेट और टॉप कवर में बने दो छेदों में से सीलिंग वायर निकालकर सील से जोड़ा गया है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक कि रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. से 5000 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^3 , 2×10^3 , 5×10^3 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(142)/2010]

बी.एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 15th April, 2011

S.O. 2399.—Whereas the Central Government, after considering the report submitted to it by prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-Automatic weighing instrument (Platform type) with digital indication of medium Accuracy (Accuracy class-III) of series "VSP" and with brand name "VISION" (hereinafter referred to as the said Model), manufactured by M/s. Vision Weigh System, L-183, Mangolpuri Delhi-110083 and which is assigned the approval mark IND/09/10/227;

The said model is a strain gauge type load cell based non-automatic weighing instrument (Platform Type) with a maximum capacity of 200 kg, minimum capacity of 4 00g. The verification scale interval (e) is 20g. It has a tare device with a 100 percent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing results. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.

Figure-1

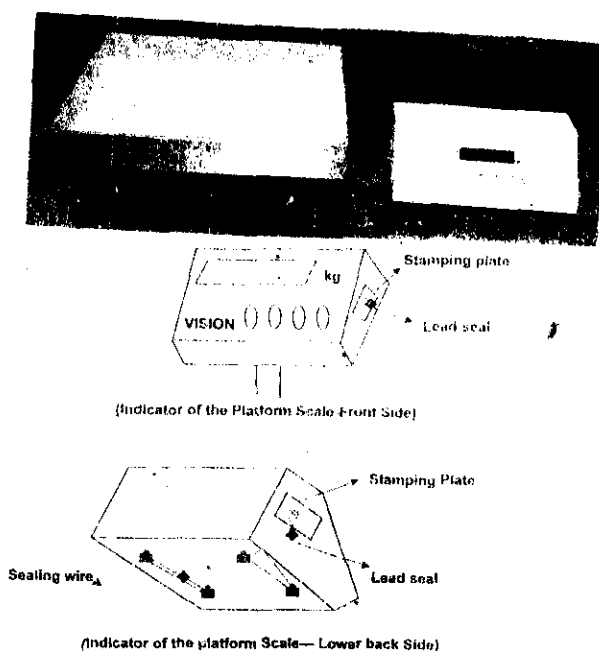


Figure 2 : Schematic Diagram of sealing provision of the model

Sealing is done on the right side/back side of the display by passing sealing wire from the body of the display. The seal is connected by whole in base plate & top cover of display, than seal wire is passed through these two holes attached with seal. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in A/D card/mother board to disable access to external calibration.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50 kg and up to 5000 kg with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F.No.WM-21/(142)/2010]

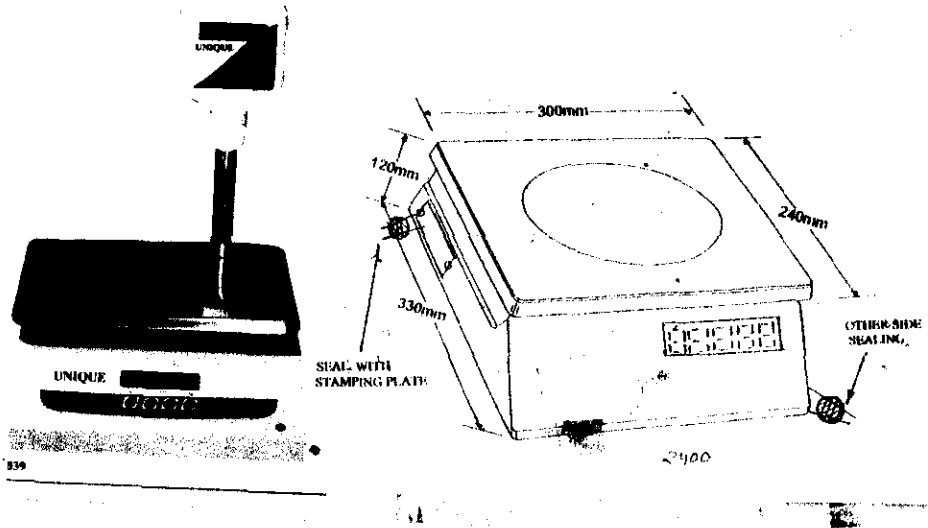
B. N. DIXIT, Director of Legal Metrology

नई दिल्ली, 15 अप्रैल, 2011

का.आ. 2400.—केन्द्रीय सरकार का विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा शक्तियों का प्रयोग करते हुए मैसर्स यूनिक इंटरप्राइजिज, जी-13, माधव पेलैस काम्पलैक्स, रामनगर, आलमबाग, लखनऊ (उत्तर प्रदेश) द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले "यूटी 55-के" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (टेबलटाप टाइप) के मॉडल का, जिसके ब्रांड का नाम "यूनिक" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/10/210 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (टेबलटाप प्रकार) है। इसकी अधिकतम क्षमता 30 कि.ग्रा. और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अंतराल (ई) 5 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड ((एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत पर कार्य करता है।



आकृति -2 सीलिंग प्रावधान

स्केल की बाड़ी के होल्ज में से सीलिंग वायर निकाल कर सीलिंग की जाती है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम ऊपर दिया गया है।

उपकरण में केलिब्रेशन के लिए बाहरी पहुंच है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि. ग्रा. से 2 ग्रा. तक के "ई" मान के लिए 100 से 10,000 तक कि रेंज में सत्यापन मानमान अंतराल (एन) और 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि. ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान $1 \times 10^*$, $2 \times 10^*$, $5 \times 10^*$, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(137)/2010]

बी.एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 15th April, 2011

S.O. 2400.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby approves and issues the certificate of approval of the model of non- Automatic weighing instrument (Table top type) with digital indication, belonging to Medium Accuracy (Accuracy class-III) of series “UT 55-K” and with brand name “UNIQUE” (hereinafter referred to as the said Model), manufactured by M/s. Unique Enterprises, G-13, Madhav Palace Complex, Ramnagar, Alambagh Lucknow (UP) which is assigned the approval mark IND/09/10/210;

The said model is a strain gauge type load cell based non- automatic weighing instrument (Table top Type) with a maximum capacity of 30 kg. and minimum capacity of 100g. The verification scale interval (e) is 5g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing results. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.

Figure-1 Model

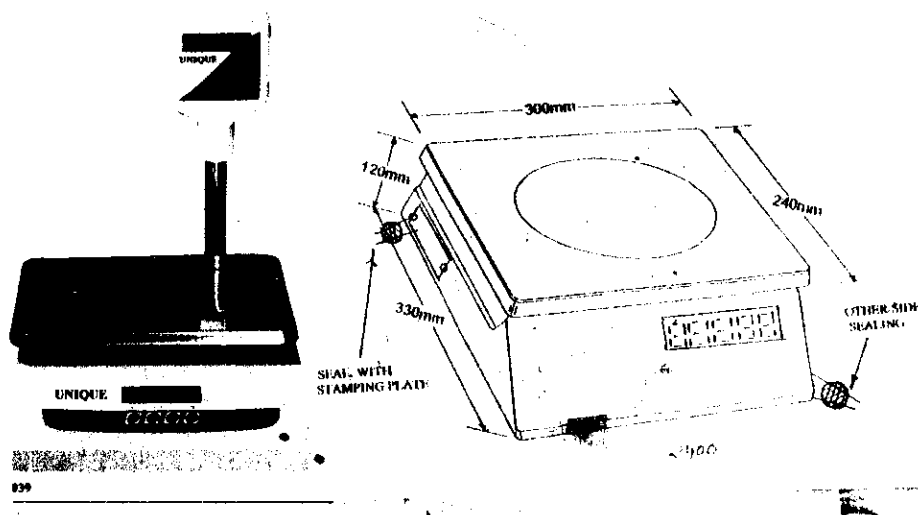


Figure 2 Schematic Diagram of sealing of the model

Sealing is done by passing the sealing wire from the body of the scale through holes. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has been provided in A/D card/mother board to disable access to external calibration.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said Model shall also cover the weighing instrument of similar make, accuracy, performance and of the same series with maximum capacity up to 50 kg. and with number of verification scale interval (n) in the range of 100 to 10,000 for 'e' value of 100mg. to 2g. and with number of verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g. or more and with 'e' value 1×10^k , 2×10^k or 5×10^k k being the positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and materials with which, the approved model has been manufactured.

[F.No.WM-21 (137)/2010]

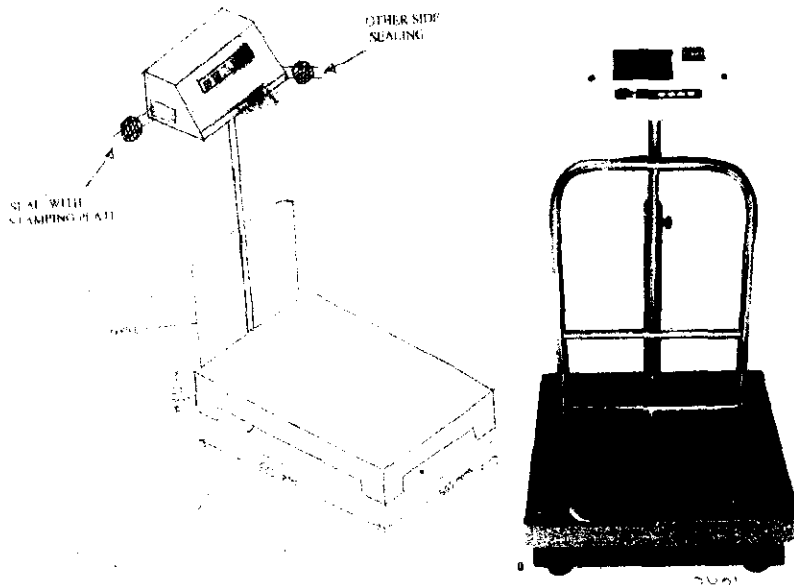
B. N. DIXIT, Director of Legal Metrology

नई दिल्ली, 15 अप्रैल, 2011

का.आ. 2401.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976(1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा शक्तियों का प्रयोग करते हुए मैसर्स यूनिक इंटरप्राइजिज, जी-13, माधव पेलैस काम्पलेक्स, रामनगर, आलमबाग, लखनऊ (उत्तर प्रदेश) द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग III) वाले "यूटीएफ 555-यू" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (प्लेटफार्म टाइप) के माडल का, जिसके ब्रांड का नाम "यूनिक" है (जिसे इसमें इसके पश्चात् उक्त माडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/10/211 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वाचालित तोलन उपकरण (प्लेटफार्म प्रकार) है। इसकी अधिकतम क्षमता 1000 कि.ग्रा. और न्यूनतम क्षमता 2 कि. ग्रा. है। सत्यापन मापमान अंतराल (ई) 100 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत पर कार्य करता है।



आकृति -2 सीलिंग प्रावधान

स्केल की बाडी के होल्ज में से सीलिंग वायर निकाल कर सीलिंग की जाती है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम ऊपर दिया गया है।

उपकरण में केलिब्रेशन के लिए बाहरी पहुंच है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक कि रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. से 5000 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^4 , 2×10^4 , 5×10^4 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(137)/2010]

बी.एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 15th April, 2011

S.O. 2401.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non- Automatic weighing instrument (Platform type) with digital indication, of Medium Accuracy (Accuracy class-III) of series "UPF 555-U" and with brand name "UNIQUE" (hereinafter referred to as the said Model), manufactured by M/s. Unique Enterprises, G-13, Madhav Palace Complex, Ramnagar, Alambagh, Lucknow (UP) which is assigned the approval mark IND/09/10/211;

The said model is a strain gauge type load cell based non- automatic weighing instrument (Platform Type) with a maximum capacity of 1000 kg. and minimum capacity of 2kg. The verification scale interval (e) is 100g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing results. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.

Figure-1 Model

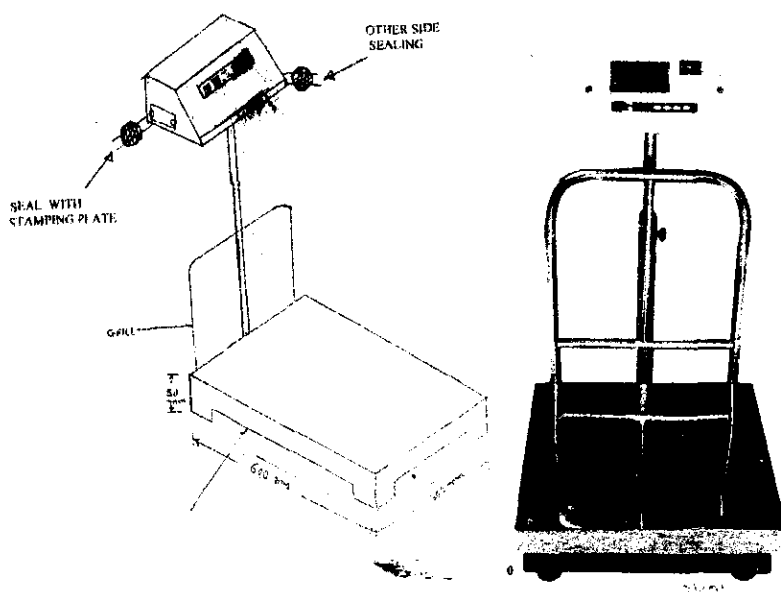


Figure 2 Schematic Diagram of sealing provision of the model

Sealing is done by passing the sealing wire from the body of the scale through holes. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in A/D card/mother board to disable access to external calibration.

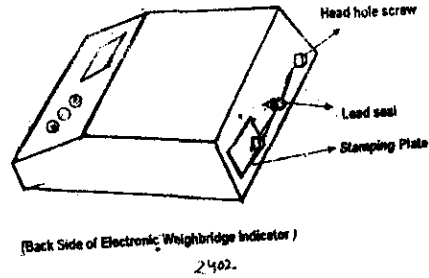
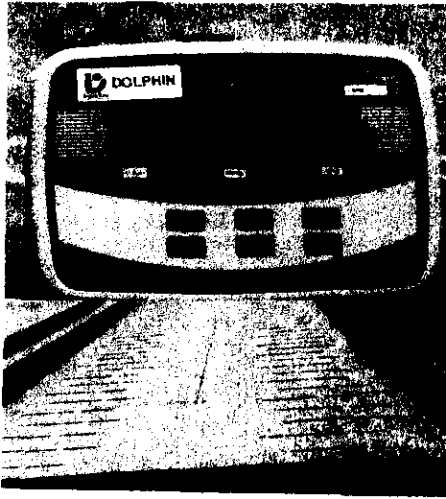
Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said Model shall also cover the weighing instruments of similar make, accuracy, performance of the same series with maximum capacity above 50 kg. up to 5000 kg. with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'e' value 1×10^k , 2×10^k or 5×10^k where k is a being the positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

नई दिल्ली, 15 अप्रैल, 2011

का.आ. 2402.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स देवी श्री मुद्रण प्रा. लि. 900 एमआईई पार्ट-ए, बहादुरगढ़, जिला झरार (हरियाणा) द्वारा विनिर्मित उच्च यथार्थता (यथार्थता II) वाले "डीपीडब्ल्यू" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (इलैक्ट्रॉनिक वेब्रिज टाइप) के मॉडल का, जिसके ब्रांड का नाम "डॉल्फिन" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/10/263 समनुदेशित किया गया है, अनुमोदन प्रमाण पत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वाचालित तोलन उपकरण (इलैक्ट्रॉनिक वेब्रिज) है। इसकी अधिकतम क्षमता 50 टन न्यूनतम क्षमता 250 कि.ग्रा. है। सत्यापन मापमान अंतराल (ई) 5 कि. ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड ((एल ई डी) तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत पर कार्य करता है।



आकृति -2 मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम

स्केल की बाड़ी के छेदों में से सीलिंग वायर निकाल कर सीलिंग की जाती है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम ऊपर दिया गया है।

बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 1 ग्रा. या उससे अधिक के "ई" मान के लिए 5000 से 100,000 तक कि रेंज में सत्यापन मापमान अंतराल (एन) सहित 5 टन से 200 टन तक की अधिकतम क्षमता वाले हैं और "ई" मान $1 \times 10^*$, $2 \times 10^*$, $5 \times 10^*$, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(179)/2010]

बी.एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 15th April, 2011

S.O. 2402.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Electronic Weighbridge) with digital indication, of High Accuracy (Accuracy class-II) of series "DPW" and with brand name "DOLPHIN" (hereinafter referred to as the said Model), manufactured by M/s. Devi Shree Mudran Pvt. Ltd. 900 MIE Part-A, Bahadurgarh Distt. Jhajjar, (Haryana) and which is assigned the approval mark IND/09/10/263;

The said model is a strain gauge type load cell based non-automatic weighing instrument (Electronic Weighbridge) with a maximum capacity of 50 tonne and minimum capacity of 250kg. The verification scale interval (e) is 5kg. It has a tare device with a 100 percent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing results. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.

Figure-1

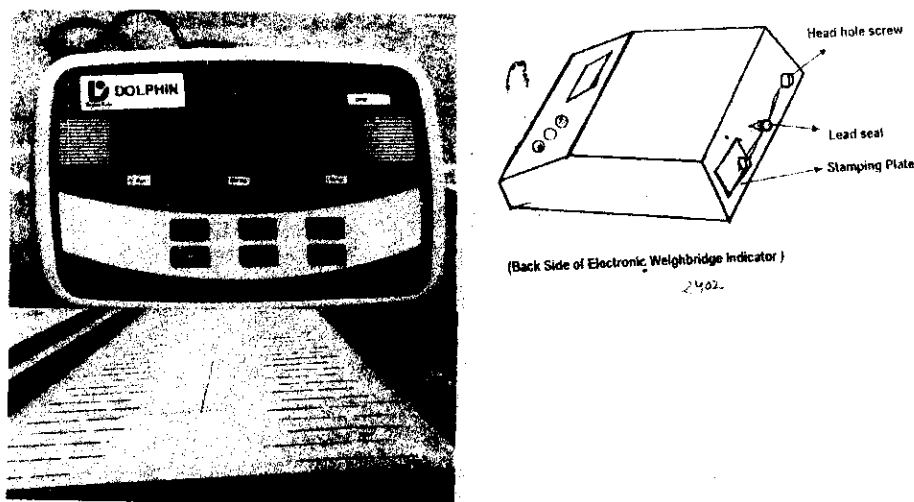


Figure 2 Schematic Diagram of sealing provision of the model

Sealing is done by passing the sealing wire from the body of the indicator through holes. A typical schematic diagram of sealing provision of the model is given above.

A dip switch has also been provided in A/D card/mother board to disable access to external calibration.

Further, in exercise of the powers conferred by sub-section (12) of section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said Model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 5tonne and up to 200 tonne with verification scale interval (n) in the range of 5000 to 100,000 for 'e' value of 1g. or above and with 'e' value 1×10^k , 2×10^k or 5×10^k where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and materials with which, the approved model has been manufactured.

[F. No.WM-21/(179)/2010]

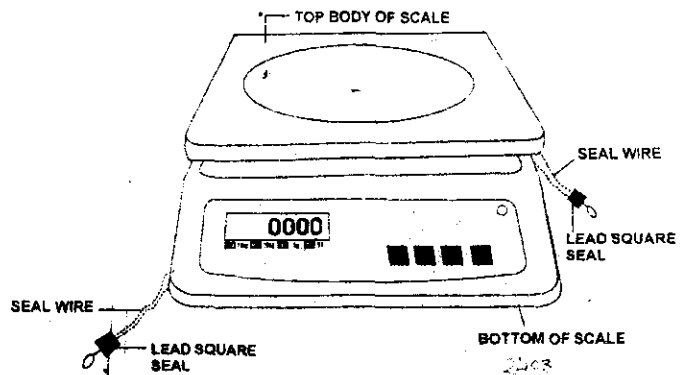
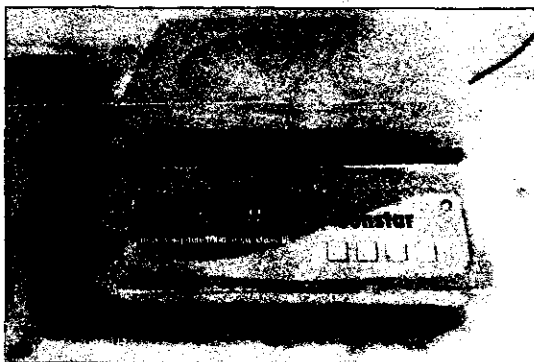
B. N. DIXIT, Director of Legal Metrology

नई दिल्ली, 18 अप्रैल, 2011

का.आ. 2403.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा शक्तियों का प्रयोग करते हुए मैसर्स सनस्टार सिस्टमस बीसी-334, मंगोलपुरी इंडस्ट्रियल एरिया, फेज- II, नई दिल्ली-110034, (भारत) द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग III) वाले "एसएसटी" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (टेबल टाप टाइप) के मॉडल का, जिसके ब्रांड का नाम "सनस्टार" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/10/475 समनुदेशित किया गया है, अनुमोदन प्रमाण पत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (टेबल टाप टाइप) है। इसकी अधिकतम क्षमता 30 कि.ग्रा. है और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अंतराल (ई) 5 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड ((एल ई डी) प्रदेश तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत पर कार्य करता है।



आकृति -2 मॉडल के इंडीकेटर को सीलिंग करने का प्रावधान

डिस्पले की बाडी में से सीलिंग वायर निकाल कर डिस्पले के राइट साइड/बैक साइड में सीलिंग की गई है। डिस्पले की बेस प्लेट और टाप कवर के छेद से सील को जोड़ा गया है, तब सील वायर इन दोनों छेदों में से निकाल कर सील से जोड़ा गया है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 1 मि. ग्रा. से 2 ग्रा. तक के "ई" मान के लिए 100 से 10,000 तक के रेंज में सत्यापन मानमान अंतराल (एन) और 5 ग्रा. या उससे अधिक के "ई" मान के लिए 5000 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^6 , 2×10^6 , 5×10^6 , के हैं, जो घनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(291)/2010]

बी.एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 18th April, 2011

S.O. 2403.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-Automatic weighing instrument (Table top type) with digital indication of Medium Accuracy (Accuracy class-III) of series "SST" and with brand name "SUNSTAR" (hereinafter referred to as the said Model), manufactured by M/s. Sunstar Systems, BC-334, Mangolpuri Industrial Area, Phase-II, New Delhi-110034 (INDIA) and which is assigned the approval mark IND/09/10/475;

The said model is a strain gauge type load cell based non-automatic weighing instrument (Table Top Type) with a maximum capacity of 30 kg. and minimum capacity of 100g. The verification scale interval (e) is 5g. It has a tare device with a 100 percent subtractive retained tare effect. The Light Emitting Diode (LED) Display indicates the weighing result. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.

Figure-1

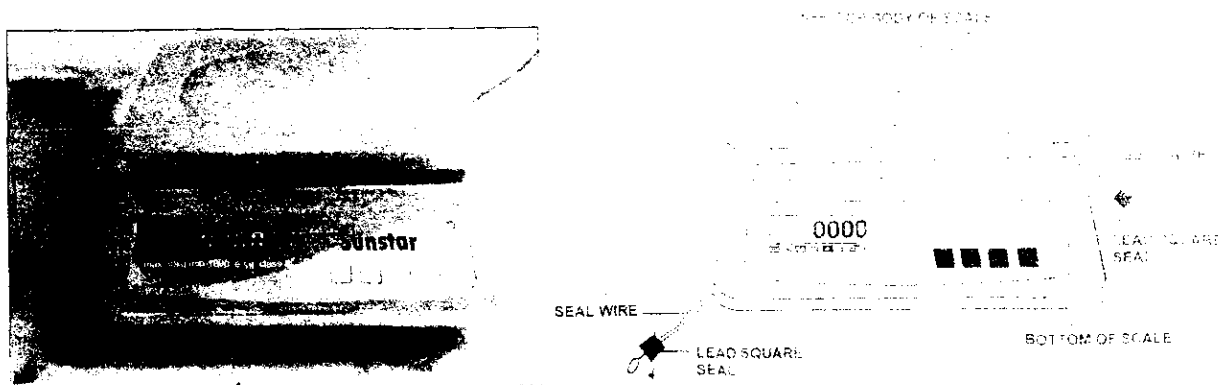


Figure 2 Schematic Diagram of sealing provision of the model

Sealing is done on the display by passing sealing wire from the body of the display. The seal is connected by whole in base plate & top cover of display, than seal wire is passed through these two holes attached with seal. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in A/D card/mother board to disable access to external calibration.

Further, in exercise of the power conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said Model shall also cover the weighing instruments of similar make, accuracy, performance of same series with maximum capacity up to 50kg, with verification scale interval (n) in the range of 100 to 10,000 for 'e' value of 1mg. to 2g. and with verification scale interval (n) in the range of 5000 to 10,000 for 'e' value of 5g. or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same and materials with which, the said approved model has been manufactured.

[E.No.WM-21-(291) 2010]

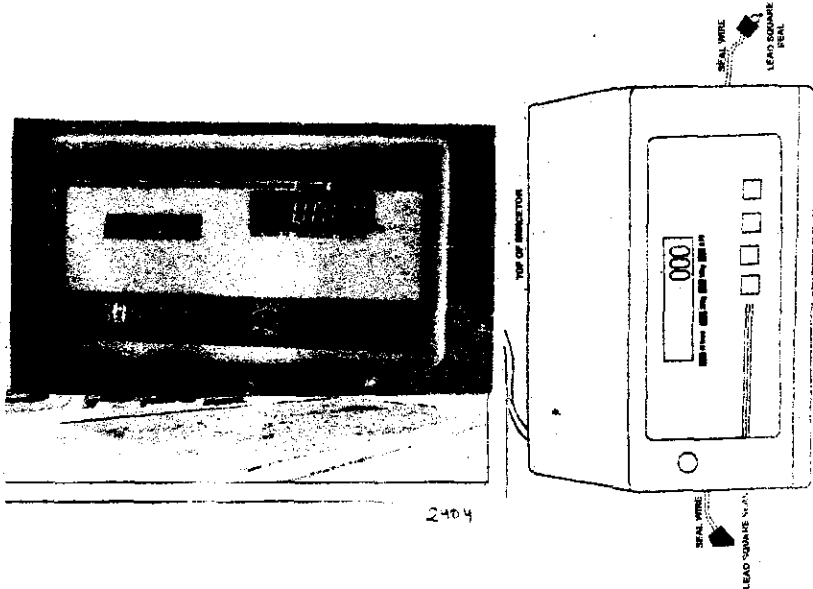
B. N. DIXIT, Director of Legal Metrology

नई दिल्ली, 18 अप्रैल, 2011

का.आ. 2404.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स सनस्टार सिस्टम्स बीसी-334, मंगोलपुरी इंडस्ट्रियल एरिया, फेज- II, नई दिल्ली-110034 (भारत) द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग III) वाले "एसएसडब्ल्यूबी" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (इलेक्ट्रॉनिक वेब्रिज टाइप) के मॉडल का, जिसके ब्रांड का नाम "सनस्टार" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/10/476 समनुदेशित किया गया है, अनुमोदन प्रमाण पत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (इलेक्ट्रॉनिक वेब्रिज टाइप) है। इसकी अधिकतम क्षमता 40 टन. है न्यूनतम क्षमता 100 कि. ग्रा. है। सत्यापन मापमान अंतराल (ई) 5 कि. ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड ((एल ई डी) प्रदेश तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत पर कार्य करता है।



आकृति -2 मॉडल के इंडिकेटर को सीलिंग करने का प्रावधान

डिस्प्ले की बाड़ी में से सीलिंग वायर निकाल कर डिस्प्ले के राइट साइड/बैक साइड में सीलिंग की गई है। डिस्प्ले की बेस प्लेट और टाप कवर के छेद से सील को जोड़ा गया है, तब सील वायर इन दोनों छेदों में से निकाल कर सील से जोड़ा गया है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मानमान अंतराल (एन) सहित 5 टन से 200 टन तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^3 , 2×10^3 , 5×10^3 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(291)/2010]

बी.एन. दीक्षित, निदेशक, विधिक माप विभाग

New Delhi, the 18th April, 2011

S.O. 2404.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non- Automatic weighing instrument (Electronic Weighbridge Type) with digital indication of Medium Accuracy (Accuracy class-III) of series "SSWB" and with brand name "SUNSTAR" (hereinafter referred to as the said Model), manufactured by M/s. Sunstar Systems, BC-334, Mangolpuri Industrial Area, Phase-II, New Delhi-110034 (INDIA) and which is assigned the approval mark IND/09/10/476;

The said model is a strain gauge type load cell based non- automatic weighing instrument (Electronic Weighbridge Type) with a maximum capacity of 40 tonne and minimum capacity of 100kg. The verification scale interval (e) is 5kg. It has a tare device with a 100 percent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing results. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.

Figure-1

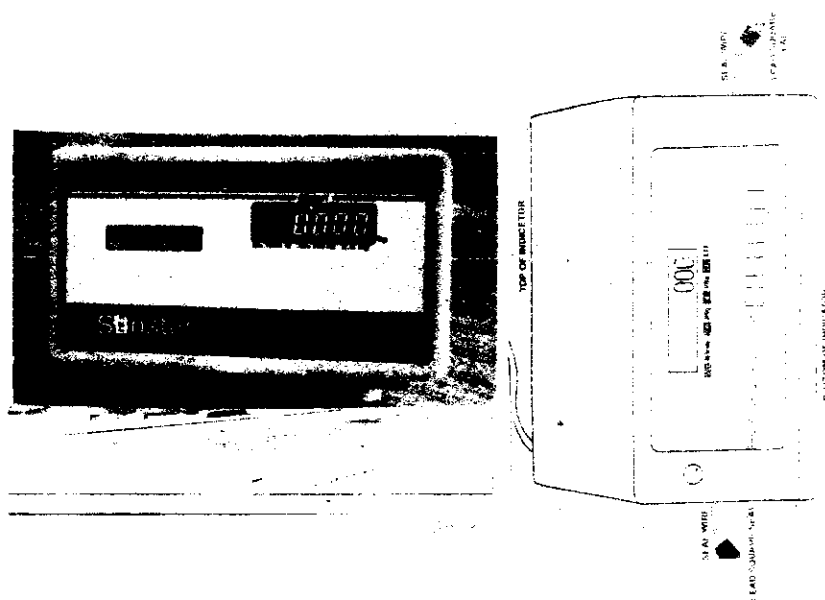


Figure 2 Schematic Diagram of sealing provision of the model

Sealing is done on the right side/back side of the display by passing sealing wire from the body of the display. The seal is connected by whole in base plate & top cover of display, than seal wire is passed through these two holes attached with seal. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in A/D card/mother board to disable access to external calibration.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said Model shall also cover the weighing instruments of similar make, accuracy, performance of same series with maximum capacity above 5 tonne and up to 200tonne with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g. or above and with 'e' value of 1×10^k , 2×10^k or 5×10^k where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and materials with which, the said approved model has been manufactured.

[F.No.WM-21/(291)/2010]

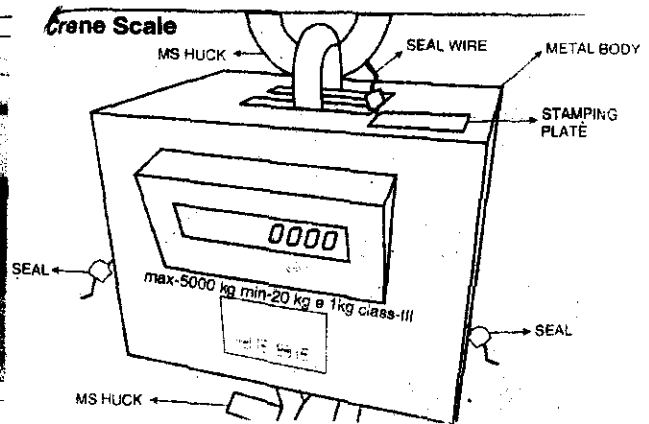
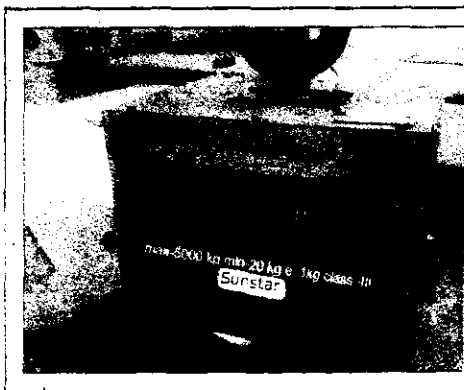
B. N. DIXIT, Director of Legal Metrology

नई दिल्ली, 18 अप्रैल, 2011

का.आ. 2405.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात को संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स सनस्टार सिस्टम्स, बीसी-334, मंगोलपुरी इंडस्ट्रियल एरिया, फेज-II, नई दिल्ली-110034 (भारत) द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले "एसएससीएस" श्रृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (क्रैन टाइप) के मॉडल का, जिसके ब्राण्ड का नाम "सनस्टार" है, (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/10/477 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (क्रैन टाइप) है। इसकी अधिकतम क्षमता 5000 कि.ग्रा. है और न्यूनतम क्षमता 20 कि. ग्रा. है। सत्यापन मापमान अंतराल (ई) 1 कि. ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



आकृति-2—मॉडल के इंडीकेटर का सीलिंग प्रावधान

स्केल की बाडी में से सीलिंग वायर निकाल कर डिस्पले की राइट साइड/लेफ्ट साइड में सीलिंग की जाती है। सील के साथ जुड़े दो छेदों में से सील वायर निकाली जाती है जो सील से जुड़ी है। मॉडल के सीलिंग प्रावधान का स्कीमवार डायग्राम ऊपर दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल का विनिर्माण किया गया है, विनिर्मित उसी श्रृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. से 30 टन तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^3 , 2×10^3 , या 5×10^3 के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(291)/2010]

बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 18th April, 2011

S.O. 2405.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Crane Type) with digital indication of medium Accuracy (Accuracy class -III) of Series "SSCS" and with brand name "SUNSTAR" (hereinafter referred to as the said Model), manufactured by M/s. Sunstar Systems, BC-334, Mangolpuri Industrial Area, Phase-II, New Delhi- 110 034 India and which is assigned the approval mark IND/09/10/477;

The said model is a strain gauge type load cell based non-automatic weighing instrument (Crane type) with a maximum capacity of 5000 kg. and minimum capacity of 20 kg. The verification scale interval (e) is 1kg. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) indicates the weighing results. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.

Figure-1 Model

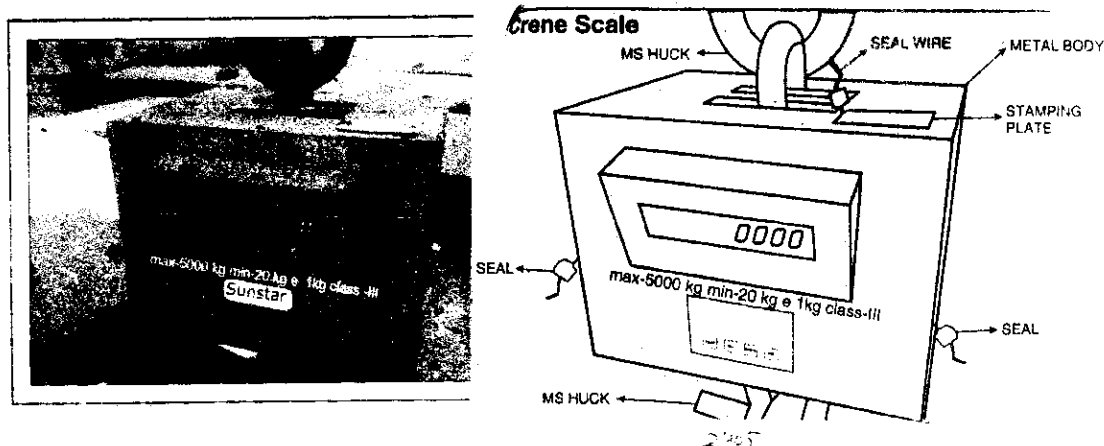


Figure-2—Sealing arrangement

Sealing is done on the right side/left side of the display by passing sealing wire from the body of the display. The seal is connected by seal wire passing through these two holes attached with seal. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in A/D card/mother board to disable access to external calibration.

The Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity range from 50 kg. and up to 30 tonne with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g. or more and with 'e' value of 1×10^k , 2×10^k , or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No.WM-21/(291)/2010]

B. N. DIXIT, Director of Legal Metrology

(भारतीय मानक ब्यूरो)

नई दिल्ली, 24 अगस्त, 2011

का.आ. 2406.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिये गये मानक(कों) में संशोधन किया गया/किये गये हैं :

अनुसूची

क्रम सं.	संशोधित भारतीय मानक की संख्या और वर्ष	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	आई एस 4880 (भाग 4): 1971 जलवाही सुरंगों के डिजाइन की रीति संहिता: भाग 4 कंक्रीट के शैल अस्तर का संरचनात्मक डिजाइन	संशोधन सं. 2 जनवरी, 2008	31 जनवरी, 2008

इस संशोधन की प्रति भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह ज़फर मार्ग, नई दिल्ली-110 002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं ।

तिथि : 24-08-2011

[संदर्भ : डब्लू आर डी 14/टी-4]

जे. सी. अरोड़ा, वैज्ञानिक 'एफ' एवं प्रमुख (जल संसाधन विभाग)

(BUREAU OF INDIAN STANDARDS)

New Delhi, the 24th August, 2011

S.O. 2406.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendments to the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued :—

SCHEDULE

Sl. No.	No. Title and year of the Indian Standard	No. and year of the amendment	Date from which the amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 4880 (Part 4): 1971 Code of Practice for Design of Tunnels Conveying Water Part 4 Structural Design of Concrete Lining in Rock	Amendment No. 2 January, 2008	31-1-08

Copy of this standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110 002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune and Thiruvananthapuram.

Date : 24-8-11

[Ref: WRD 14/T-4]

J. C. ARORA, Sc. 'F' & Head (Water Resources Deptt.)

नई दिल्ली, 26 अगस्त, 2011

का.आ. 2407.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि भारतीय मानक के विवरण नीचे अनुसूची में दिये गये हैं वे स्थापित हो गए हैं :—

अनुसूची

क्रम सं.	स्थापित भारतीय मानक (कों) की संख्या और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	'एस पी 21: 2005 भवन निर्माण सामग्रियों से संबंधित भारतीय मानकों का सार' (पहला पुनरीक्षण)	'एस पी 21 (एस एवं टी): 1983 भवन निर्माण सामग्रियों से संबंधित भारतीय मानकों का सार'	30 नवम्बर, 2009

इस भारतीय मानक की प्रति भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह ज़फर मार्ग, नई दिल्ली-110 002, क्षेत्रीय कार्यालयों: नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

तिथि : 26 अगस्त, 2011

[संदर्भ : सीईडी/राजपत्र]

ए. के. सैनी, वैज्ञानिक 'एफ' एवं प्रमुख (सिविल इंजीनियरी)

New Delhi, the 26th August, 2011

S.O. 2407.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :—

SCHEDULE

Sl. No.	No. and year of the Indian Standard Established and Title	No. and year of the Indian Standards, if any, Superseded by the New Indian Standard	Date of Established
(1)	(2)	(3)	(4)
1.	'SP 21 : 2005 Summaries of Indian Standards for Building Materials (First Revision)'	'SP 21 (S & T) : 1983 Summaries of Indian Standards for Building Materials'	30 November, 2009

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110 002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune and Thiruvananthapuram.

Date : 26 August, 2011

[Ref : CED /Gezette]

A. K. SAINI, Sc. 'F' & Head (Civil Engg.)

कोयला मंत्रालय

नई दिल्ली, 1 सितम्बर, 2011

का.आ. 2408.—केन्द्रीय सरकार कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 4 की उप-धारा (1) के अधीन भारत सरकार ने कोयला मंत्रालय के द्वारा जारी की गई अधिसूचना संख्यांक का.आ. 756 तारीख 11 मार्च, 2010 जो भारत के राजपत्र के भाग-II, खण्ड-3, उप-खण्ड (ii) तारीख 20 मार्च, 2010 में प्रकाशित की गई थी, उस अधिसूचना से उपाबद्ध अनुसूची में विनिर्दिष्ट परिक्षेत्र की भूमि में जिसका माप 421.05 हेक्टर (लगभग) या 1040.00 एकड़ (लगभग) है कोयले का पूर्वेक्षण करने के अपने आशय की सूचना दी थी ;

और केन्द्रीय सरकार, को यह समाधान हो गया है कि इस अधिसूचना में उपाबद्ध अनुसूची में विहित की गई उक्त भूमि के भाग में कोयला अभिप्राप्त है ;

अतः, अब, केन्द्रीय सरकार, कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 की धारा 7 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, इससे उपाबद्ध अनुसूची में वर्णित 421.05 हेक्टर (लगभग) या 1040.00 एकड़ (लगभग) माप की उक्त भूमि का अर्जन करने के अपने आशय की सूचना देती है;

इस अधिसूचना के अधीन आने वाले क्षेत्र के रेखांक संख्या आरईवी/1/2011, तारीख 26 फरवरी, 2011 का निरीक्षण उपायुक्त, जिला - बोकारो, झारखण्ड के कार्यालय में या कोयला नियंत्रक, 1, कार्डिसल हाउस स्ट्रीट, कोलकाता-700 001 के कार्यालय में या महाप्रबंधक, राजरप्पा क्षेत्र, झारखण्ड के कार्यालय में या महाप्रबंधक (भूमि एवं राजस्व), सेन्ट्रल कोलफील्ड्स लिमिटेड, दरभंगा हाउस, रांची, झारखण्ड या मुख्य महाप्रबंधक, (गवेषण खंड), सेन्ट्रल माइन प्लानिंग एवं डिजाइन इस्टीम्यूट, गोंडवाना पैलेस, कांके रोड, रांची झारखण्ड में किया जा सकता है।

टिप्पण 1 :—उक्त अधिनियम की धारा 8 के उपबंधों की ओर ध्यान आकृष्ट किया जाता है, जिसमें निम्नलिखित उपबंध हैं :—

अर्जन की बाबत आपत्तियां :

“8(1) कोई व्यक्ति जो किसी भूमि में जिसकी बाबत धारा 7 के अधीन अधिसूचना निकाली की गई है, हितबद्ध है, अधिसूचना के निकाले जाने से तीस दिनों के भीतर सम्पूर्ण भूमि या उसके किसी भाग या ऐसी भूमि में या उस पर के किन्हीं अधिकारों का अर्जन किए जाने के बारे में आपत्ति कर सकेगा।

स्पष्टीकरण :—

1. इस धारा के अंतर्गत यह आपत्ति नहीं मानी जाएगी, कोई व्यक्ति किसी भूमि में कोयला उत्पादन के लिए स्वयं खनन सक्रियाएं करना चाहता है और ऐसी सक्रियाएं केन्द्रीय सरकार या किसी अन्य व्यक्ति को नहीं करनी चाहिए।

2. उप-धारा (1) के अधीन प्रत्येक आपत्ति सक्षम प्राधिकारी को लिखित रूप में की जाएगी और सक्षम प्राधिकारी आपत्तिकर्ता को स्वयं सुने जाने का या विधि व्यवसायी द्वारा सुनवाई का अवसर देगा और ऐसी सभी आपत्तियों को सुनने के पश्चात् और ऐसी अतिरिक्त जांच, यदि कोई हो, करने के पश्चात् जो यह आवश्यक समझता है, वह या तो धारा 7 की उप-धारा (1) के अधीन अधिसूचित भूमि के या ऐसी भूमि में या उस पर के अधिकारों के संबंध में एक रिपोर्ट या ऐसी भूमि के विभिन्न टुकड़ों या ऐसी भूमि में या उस पर के अधिकारों के संबंध में आपत्तियों पर अपनी सिफारिशों और उसके द्वारा की गई कार्यवाही के अभिलेख सहित विभिन्न रिपोर्ट केन्द्रीय सरकार को उसके विनिश्चय के लिए देगा।

3. इस धारा के प्रयोजनों के लिए, वह व्यक्ति किसी भूमि में हितबद्ध समझा जाएगा जो प्रतिकर में हित का दावा करने का हकदार होता, यदि भूमि या किसी ऐसी भूमि में या उस पर के अधिकार इस अधिनियम के अधीन अर्जित कर लिए जाते।”

टिप्पण 2 : केन्द्रीय सरकार ने, कोयला नियंत्रक, 1, कार्डिसल हाउस स्ट्रीट, कोलकाता- 700 001 को उक्त अधिनियम के अधीन भारत के राजपत्र, भाग II, खण्ड 3, उप-खण्ड (ii), में 11 जून, 1983 में प्रकाशित अधिसूचना संख्या का.आ. 2518, तारीख 27 मई, 1983 द्वारा सक्षम प्राधिकारी नियुक्त किया है।

अनुसूची

रामगढ़ ब्लॉक -II, सब ब्लॉक-जे कोल माइनिंग ब्लॉक

जिला- बोकारो (झारखण्ड)

(रेखांक संख्या आरईवी/1/2011, तारीख 26 फरवरी, 2011)

ब्लॉक "ए"

सरफेस अधिकार :

क्रम सं.	मौजा/ग्राम	थाना	ग्राम/थाना संख्यांक	जिला	क्षेत्र (हेक्टेयर में) (लगभग)	क्षेत्र एकड़ में (लगभग)	टिप्पणियां
1.	सिमरबेड़ा	गोमियां	52	बोकारो	1.62	4.00	भाग
2.	धवैया	गोमियां	53	बोकारो	168.01	415.00	भाग
3.	गोपो	गोमियां	54	बोकारो	09.31	23.00	भाग
कुल क्षेत्र:					178.94	442.00	

ब्लॉक "बी"

सरफेस अधिकार :

क्रम सं.	मौजा/ग्राम	थाना	ग्राम/थाना संख्यांक	जिला	क्षेत्र (हेक्टेयर में) (लगभग)	क्षेत्र एकड़ में (लगभग)	टिप्पणियां
1.	सिमरबेड़ा	गोमियां	52	बोकारो	67.21	166.00	भाग
2.	धवैया	गोमियां	53	बोकारो	163.96	405.00	भाग
कुल क्षेत्र :					231.17	571.00	

ब्लॉक "सी"

सरफेस अधिकार :

क्रम सं.	मौजा/ग्राम	थाना	ग्राम/थाना संख्यांक	जिला	क्षेत्र (हेक्टेयर में) (लगभग)	क्षेत्र एकड़ में (लगभग)	टिप्पणियां
1.	धवैया	गोमियां	53	बोकारो	10.94	27.00	भाग

कुल ब्लॉक : "ए" + "बी" + "सी" = 421.05 हेक्टेयर (लगभग) या 1040.00 (लगभग)

रामगढ़ ब्लॉक-II, सब ब्लॉक - जे कोल माइनिंग, जिला - बोकारो (झारखंड)

ब्लॉक "ए"

ग्राम गोपो में अर्जित किए जाने वाले प्लॉट संख्या :

1009 (भाग), 1010, 1011 (भाग), 1012, 1013, 1014 .

ग्राम धवैया में अर्जित किए जाने वाले प्लॉट संख्या :

52 (भाग), 53(भाग) , 54(भाग), 56 (भाग), 101, 102, 103(भाग) , 105, 106 (भाग), 107 (भाग), 108 (भाग), 109 (भाग), 110,111 (भाग), 112 (भाग), 113, 114, 115 (भाग), 116, 117, 118 (भाग), 119, 120 (भाग), 122 (भाग), 123 (भाग), 124 (भाग), 125(भाग), 135 (भाग), 147 (भाग), 166 (भाग), 167 से 173, 174 (भाग), 177 (भाग), 220 (भाग), 223 (भाग), 224 से 242, 243 (भाग), 244 (भाग), 246 (भाग), 247, 248 (भाग), 249 से 252, 253 (भाग), 254, 255, 256 (भाग), 257 (भाग), 259 (भाग), 262 (भाग), 264 (भाग), 266 (भाग), 267 से 269, 270 (भाग), 271 (भाग), 272, 273 (भाग), 274, 275, 276 (भाग), 277 (भाग), 280 (भाग), 281 से 398, 399 (भाग), 400 (भाग), 402 (भाग), 417 (भाग), 422 (भाग), 425, 434, 435 (भाग), 436, 437

(भाग), 438 (भाग), 439 (भाग), 446 (भाग), 447 (भाग), 449 (भाग), 450, 451 (भाग), 452 (भाग), 453 से 501, 502 (भाग), 506 से 556, 558 (भाग), 570 (भाग), 571 (भाग), 575 (भाग), 576 से 593, 594 (भाग), 595 से 620, 621 (भाग), 622, 623, 624 से 670, 671 (भाग), 672, 673 (भाग), 674 (भाग), 675 (भाग), 676 से 682, 683 (भाग), 684 (भाग), 685 (भाग), 686 (भाग), 774 (भाग), 775 से 779, 780 (भाग), 781 से 786, 787 (भाग), 810 (भाग), 811 (भाग), 812 से 821, 822 (भाग), 823 (भाग), 824 (भाग), 880 (भाग), 881, 882 (भाग), 1254, 1255 ।

ग्राम सिमरबेड़ा में अर्जित किए जाने वाले प्लॉट संख्या :

435 (भाग), 459, 460 (भाग)

ब्लॉक “बी”

ग्राम सिमरबेड़ा में अर्जित किए जाने वाले प्लॉट संख्या :

367 (भाग), 392 (भाग), 400 (भाग), 401 से 403, 404 (भाग), 405 से 421, 423, 424 (भाग), 425, 426, 427 (भाग), 429 (भाग), 430 (भाग), 431 (भाग), 435 (भाग), 459, 485 (भाग), 486, 487 से 490, 491 (भाग), 492 (भाग), 493 से 511, 512 (भाग), 513 से 516, 517 (भाग), 518, 519, 520 (भाग), 523, 527 (भाग), 528 (भाग), 529 (भाग), 530 (भाग), 531, 532 (भाग), 533, 534 (भाग), 535 (भाग), 536 (भाग), 636 (भाग), 695 (भाग), 696 (भाग), 725 (भाग), 726 (भाग), 727 (भाग), 728 (भाग), 729, 730 (भाग), 732 (भाग), 733 से 765, 766 (भाग), 767, 768, 775, 812, 813 (भाग), 815 (भाग), 816 (भाग), 817 से 854, 855 (भाग), 856 (भाग), 857 से 859, 860 (भाग), 861, 862 (भाग), 863 (भाग), 869 (भाग), 873 (भाग), 874 (भाग), 893 (भाग), 895 (भाग), 896 से 898, 901 (भाग), 902, 903 (भाग), 904 (भाग), 905, 906, 907, 908, 909 (भाग), 910, 911 से 923, 924 (भाग), 925 (भाग), 928 से 931, 932 (भाग), 933, 934 (भाग), 935, 936 (भाग), 940 (भाग), 941 से 943, 944 (भाग), 945 से 957, 959 (भाग), 960 (भाग), 961 (भाग), 962 से 973, 974 (भाग), 977 से 978, 979 (भाग), 980 से 1006, 1007 (भाग), 1008, 1009 (भाग), 1015 (भाग), 1017, 1018 (भाग), 1019 से 1026, 1027 (भाग), 1028 से 1035, 1036 (भाग), 1039 (भाग), 1040, 1042 (भाग), 1044 से 1049, 1050 (भाग), 1051 (भाग), 1052 (भाग), 1133 (भाग), 1137 (भाग), 1138 से 1139, 1140 (भाग), 1141 से 1205, 1206 (भाग), 1207 से 1243, 1246 ।

ग्राम धवैया में अर्जित किए जाने वाले प्लॉट संख्या :

946 (भाग), 947 (भाग), 949 से 953, 954, (भाग), 955 (भाग), 956 (भाग), 957 (भाग), 1010 (भाग), 1033 (भाग), 1034 (भाग), 1036 से 1039, 1040 (भाग), 1041 (भाग), 1042 (भाग), 1044 (भाग), 1045 (भाग), 1046 (भाग), 1047 (भाग), 1048, 1049 (भाग), 1089, 1097 (भाग), 1099 (भाग), 1100 (भाग), 1101 से 1116, 1118 (भाग), 1119 से 1153, 1154 (भाग), 1156 (भाग), 1157 से 1171, 1173 से 1177, 1178 (भाग), 1179 से 1186, 1190 (भाग), 1194 (भाग), 1195 (भाग), 1196, 1197 (भाग), 1205 (भाग), 1207 (भाग), 1208 से 1210, 1211 (भाग), 1212 (भाग), 1213 (भाग), 1215 (भाग), 1225 (भाग), 1227 (भाग), 1228 (भाग), 1229, 1230 (भाग) ।

ब्लॉक “सी”

ग्राम धवैया में अर्जित किए जाने वाले प्लॉट संख्या :

1190 (भाग), 1243 (भाग), 1244, 1245, 1246 (भाग), 1247, 1248, 1249, 1250, 1251.

सीमा का वर्णन :

ब्लॉक “ए”

ए-बी-सी रेखा बिन्दु ‘ए’ से प्रारम्भ होकर ग्राम-धवैया के प्लॉट संख्या - 52, 53, 54, 125, 56, 107, 124, 115, 107, 111, 107, 106, 105, 103, 105, 402, 399, 400, 417, 422, 456, 425, 449, 447, 435, 434, 416 और ग्राम -सिमरबेड़ा के प्लॉट संख्या- 435 से गुजरती हुई बिन्दु “सी” पर मिलती है ।

सी-डी रेखा बिन्दु “सी” ग्राम- सिमरबेड़ा के प्लॉट संख्या-435, 460 और ग्राम धवैया के प्लॉट संख्या - 434, 437, 438, 446, 451, 452, 671, 673, 674, 686, 685, 684, 683, 780, 774, 787, 811, 810, 823, 824, 623, 621, 882, 880, 882, 571, 575, 594, 502, 506, 558 से गुजरती हुई बिन्दु “डी” पर मिलती है ।

डी-ई-एफ रेखा बिन्दु “डी” दामोदर नदी के पूर्वी सीमा के साथ गुजरती हुई ग्राम-धवैया के “एफ” बिन्दु पर मिलती है ।

एफ-जी रेखा बिन्दु “एफ” ग्राम धवैया के प्लॉट संख्या-280, 277 और ग्राम गोपो के प्लॉट संख्या -1009 से गुजरती हुई बिन्दु “जी” पर मिलती है ।

जी-एच-ए रेखा बिन्दु “जी” से ग्राम गोपो के प्लॉट संख्या -1009, 1001 और ग्राम धवैया के प्लॉट संख्या -273, 276, 271, 270, 135, 266, 135, 264, 262, 259, 257, 253, 248, 246, 244, 243, 223, 177, 174, 167, 166, 105, 107, 108,

109, 111, 112, 111, 115, 118, 47, 120, 122, 124, 125 से गुजरती हुई प्रारंभिक बिन्दु "ए" पर मिलती है।

ब्लॉक "बी"

- आई-जे-के-एल-एम रेखा बिन्दु "आई" से प्रारम्भ होकर ग्राम सिमरबेड़ा के प्लॉट संख्या -367, 400, 404, 367, 407, 392, 367, 520, 521, 523, 519, 517, 514, 515, 513, 512, 932, 935, 936, 944, 940, 924, 925, 926, 527, 528, 530, 529, 530, 532, 536, 535, 534, 909, 895 से गुजरती हुई बिन्दु "एम" पर मिलती है।
- एम-एन-ओ-पी-क्यू रेखा बिन्दु "एम" ग्राम सिमरबेड़ा के प्लॉट संख्या- 895, 904, 903, 901, 895, 959, 960, 961, 974, 976, 975, 979, 1206, 1027, 1206, 874, 873, 855, 856, 869, 859, 860, 862, 863, 816, 815, 813, 893, 726, 727, 728, 725, 730, 732, 696, 695, 636, 766, 636 से गुजरती हुई बिन्दु "क्यू" पर मिलती है।
- क्यू-आर रेखा बिन्दु "क्यू" दामोदर नदी के दक्षिण सीमा से होकर ग्राम-सिमरबेड़ा और धवैया से होकर गुजरती हुई बिन्दु "आर" पर मिलती है।
- आर-एस रेखा बिन्दु "आर" ग्राम -धवैया के प्लॉट संख्या-1190, 1171, 1178, 1190, 1156, 1144, 1154, 1153, 1194, 1195, 1194, 1197, 1118, 1210, 1205, 1207, 1231 से गुजरती हुई बिन्दु "एस" पर मिलती है।
- एस-टी रेखा बिन्दु "एस" दामोदर नदी के पश्चिमी सीमा से होकर ग्राम-धवैया से गुजरती हुई बिन्दु "टी" पर मिलती है।
- टी-यू-वी-डब्ल्यू-आई रेखा बिन्दु "टी" ग्राम धवैया के प्लॉट संख्या- 946, 947, 954, 955, 956, 957, 1089, 1231, 1230, 1227, 1225, 1228, 1210, 1215, 1213, 1210, 1212, 1210, 1211, 1210, 1099, 1100, 1097, 1042, 1041, 1097, 1040, 1043, 1044, 1045, 1046, 1049, 1047, 1034, 1033, 1010 और ग्राम-सिमरबेड़ा के प्लॉट संख्या- 1137, 1133, 1140, 1036, 1037, 1015, 1018, 1007, 1009, 1036, 1039, 1042, 1043, 1052, 1050, 1052, 1051, 485, 491, 492, 424, 427, 429, 430, 431, 404 से गुजरती हुई आरंभिक बिन्दु "आई" पर मिलती है।

ब्लॉक "सी"

- एक्स-वाई रेखा बिन्दु "एक्स" से प्रारम्भ होकर ग्राम धवैया के प्लॉट संख्या- 1247, 1246, 1243, 1190 से गुजरती हुई बिन्दु "वाई" पर मिलती है।
- वाई-जेड-एक्स रेखा बिन्दु "वाई" दामोदर नदी के उत्तर-पूर्व सीमा के बिन्दु-जेड से गुजरती हुई बिन्दु प्रारंभिक बिन्दु "एक्स" पर मिलती है।

[फा. सं.-43015/19/2009-पी आर आई डब्ल्यू-1]

एस. सी. भाटिया, निदेशक

MINISTRY OF COAL

New Delhi, the 1st September, 2011

S.O. 2408.— Whereas by the notification of the Government of India in the Ministry of Coal number S.O.756 dated the 11th March, 2010 issued under sub-section (1) of Section 4 of the Coal Bearing Areas (Acquisition & Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), and published in Part-II, section-3, sub-section (ii), the Gazette of India, dated the 20th March, 2010 the Central Government gave notice of its intention to prospect for coal in 421.05 hectares (approximately) or 1040.00 acres (approximately) of the lands in the locality specified in the Schedule annexed to that notification;

And, whereas, the Central Government is satisfied that coal is obtainable in a part of the said lands prescribed in the Schedule appended to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 7, of the said Act, the Central Government hereby gives notice of its intention to acquire the surface rights in and over the land measuring 421.05 hectares (approximately) or 1040.00 acres (Approximately) and described in the schedule appended hereto;

The plan bearing number Rev / 1 /2011, dated the 26th February, 2011 of the area covered by this notification can be inspected in the office of the Deputy commissioner, District-Bokaro, Jharkhand or at the office of the Coal Controller, 1, Council House Street, Kolkata 700 001, or in the office of the General Manager, Rajrappa area, Jharkhand or General Manager (Land and Revenue), Central Coalfields Limited, Darbhanga House, Ranchi or Chief General Manager (Exploration Division), Central Mine Planning and Design Institute, Gondwana place, Kanke Road, Ranchi.

Note-1: Attention is hereby invited to the provisions of section - 8 of the said Act which provides as follows:-

Objections to acquisition -

“8(1) Any person interested in the land in respect of which a notification under section 7 has been issued, may, within thirty days of the issue of the notification, object to the acquisition of the whole or any part of the land or of any rights in or over such land.

Explanation -

(1) It shall not be an objection within the meaning of this section for any person to say that he himself desires to undertake mining operations in the land for the production of coal and that such operations should not be undertaken by the Central Government or by any other person.

(2) Every objection under sub-section (1) shall be made to the competent authority in writing, and the competent authority shall give the objector an opportunity of being heard either in person or by a legal practitioner and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, either make a report in respect of the land which has been notified under sub-section (1) of section 7 or of rights in or over such land, or make different reports in respect of different parcels of such land or of rights in or over such land, to the Central Government, Containing his recommendations on the objections, together with the record of the proceedings held by him, for the decision of that Government.

(3) For the purposes of this section, a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land or any rights in or over such land were acquired under this Act.”

Note- 2 : The Coal Controller, 1, Council House Street, Kolkata -700 001 has been appointed by the Central Government as the competent authority under section 3 of the said Act, vide notification number S.O. 2518 dated the 27th May, 1983, published in part - II, section 3, sub-section (ii) of the Gazette of India dated the 11th June, 1983.

SCHEDULE

Ramgarh Block-II Sub Block J Coal Mining Block

District - Bokaro (Jharkhand)

(Plan bearing number Rev /1 /2011, dated the 26th February, 2011)

BLOCK- 'A'

Surface Rights:

Sl. No.	Mauja/ Village	Thana	Village/ Thana number	District	Area (in hectares) (approximately)	Area (in acres) (approximately)	Remarks
1.	Semraber	Gomia	52	Bokaro	1.62	4.00	Part
2.	Dhawaiya	Gomia	53	Bokaro	168.01	415.00	Part
3.	Gopo	Gomia	54	Bokaro	09.31	23.00	Part
Total Area:					178.94	442.00	

BLOCK - 'B'

Surface Rights:

Sl. No.	Mauja/ Village	Thana	Village/ Thana number	District	Area (in hectares) (approximately)	Area (in acres) (approximately)	Remarks
1.	Semraber	Gomia	52	Bokaro	67.21	166.00	Part
2.	Dhawaiya	Gomia	53	Bokaro	163.96	405.00	Part
Total Area:					231.17	571.00	

BLOCK - 'C'

Surface Rights :

Sl. No.	Mauja/ Village	Thana	Village/ Thana number	District	Area (in hectares) (approximately)	Area (in acres) (approximately)	Remarks
1.	Dhawaiya	Gomia	53	Bokaro	10.94	27.00	Part

Total Block 'A'+ 'B'+ 'C'= 421.05 hectares (approximately) or 1040.00 acres (approximately)

Ramgarh Block-II Sub Block-J Coal Mining Block, District-Bokaro (Jharkhand):

BLOCK- 'A'

Surface rights in or over the Plot numbers to be acquired in village Gopo :

1009 (P), 1010, 1011 (P) 1012, 1013, 1014.

Surface rights in or over the Plot numbers to be acquired in village Dhawaiya :

52(P), 53(P), 54(P), 56 (P), 101, 102, 103 (P), 105(P), 106 (P), 107 (P), 108 (P), 109 (P), 110, 111 (P), 112 (P), 113, 114, 115 (P), 116, 117, 118 (P), 119, 120 (P), 122 (P), 123 (P), 124 (P), 125(P), 135 (P), 147 (P), 166 (P), 167 to 173, 174 (P), 177 (P), 220 (P), 223 (P), 224 to 242, 243 (P), 244 (P), 246 (P), 247, 248 (P), 249 to 252, 253 (P), 254, 255, 256 (P), 257 (P), 259 (P), 262 (P), 264 (P), 266 (P), 267 to 269, 270 (P), 271 (P), 272, 273 (P), 274, 275, 276 (P), 277 (P), 280 (P), 281 to 398, 399 (P), 400 (P), 402 (P), 417 (P), 422 (P), 425, 434, 435 (P), 436, 437 (P), 438 (P), 439 (P), 446 (P), 447 (P), 449 (P), 450, 451 (P), 452 (P), 453 to 501, 502 (P), 506 to 556, 558 (P), 570 (P), 571 (P), 575 (P), 576 to 593, 594 (P), 595 to 620, 621 (P), 622, 623, 624 to 670, 671 (P), 672, 673 (P), 674 (P), 675 (P), 676 to 682, 683 (P), 684 (P), 685 (P), 686 (P), 774 (P), 775 to 779, 780 (P), 781 to 786, 787 (P), 810 (P), 811 (P), 812 to 821, 822 (P), 823 (P), 824 (P), 880 (P), 881, 882 (P), 1254, 1255.

Surface rights in or over the Plot numbers to be acquired in village Semraberā :

435 (P), 459, 460 (P).

BLOCK - 'B'

Surface rights in or over the Plot numbers to be acquired in village Semraberā:

367 (P), 392 (P), 400 (P), 401 to 403, 404 (P), 405 to 421, 423, 424 (P), 425, 426, 427 (P), 429 (P), 430 (P), 431 (P), 435 (P), 459, 485 (P), 486, 487 to 490, 491 (P), 492 (P), 493 to 511, 512 (P), 513 to 516, 517 (P), 518, 519, 520 (P), 523, 527 (P), 528 (P), 529 (P), 530 (P), 531, 532 (P), 533, 534 (P), 535 (P), 536 (P), 636 (P), 695 (P), 696 (P), 725 (P), 726 (P), 727 (P), 728 (P), 729, 730 (P), 732 (P), 733 to 765, 766 (P), 767, 768, 775, 812, 813 (P), 815 (P), 816 (P), 817 to 854, 855 (P), 856 (P), 857 to 859, 860 (P), 861, 862 (P), 863 (P), 869 (P), 873 (P), 874 (P), 893 (P), 895 (P), 896 to 898, 901 (P), 902, 903 (P), 904 (P), 905, 906, 907, 908, 909 (P), 910, 911 to 923, 924 (P), 925 (P), 928 to 931, 932 (P), 933, 934 (P), 935, 936 (P), 940 (P), 941 to 943, 944 (P), 945 to 957, 959 (P), 960 (P), 961 (P), 962 to 973, 974 (P), 977 to 978, 979 (P), 980 to 1006, 1007 (P), 1008, 1009 (P), 1015 (P), 1017, 1018 (P), 1019 to 1026, 1027 (P), 1028 to 1035, 1036 (P), 1039 (P), 1040, 1042 (P), 1044 to 1049, 1050 (P), 1051 (P), 1052 (P), 1133 (P), 1137 (P), 1138 to 1139, 1140 (P), 1141 to 1205, 1206 (P), 1207 to 1243, 1246.

Surface rights in or over the Plot numbers to be acquired in village Dhawaiya :

946 (P), 947 (P), 949 to 953, 954, (P), 955 (P), 956 (P), 957 (P), 1010 (P), 1033 (P), 1034 (P), 1036 to 1039, 1040 (P), 1041 (P), 1042 (P), 1044 (P), 1045 (P), 1046 (P), 1047 (P), 1048, 1049 (P), 1089, 1097 (P), 1099 (P), 1100 (P), 1101 to 1116, 1118 (P), 1119 to 1153, 1154 (P), 1156 (P), 1157 to 1171, 1173 to 1177, 1178 (P), 1179 to 1186, 1190 (P), 1194 (P), 1195 (P), 1196, 1197 (P), 1205 (P), 1207 (P), 1208 to 1210, 1211 (P), 1212 (P), 1213 (P), 1215 (P), 1225 (P), 1227 (P), 1228 (P), 1229, 1230 (P).

BLOCK 'C'

Surface rights in or over the Plot numbers to be acquired in village Dhawaiya. :

1190 (P), 1243 (P), 1244, 1245, 1246 (P), 1247, 1248, 1249, 1250, 1251.

BOUNDARY DESCRIPTION:

BLOCK 'A'

A-B- C Lines start from Point 'A' Plot Nos. 52, 53, 54, 125, 56, 107, 124, 115, 107, 111, 107, 106, 105, 103, 105, 402, 399, 400, 417, 422, 456, 425, 449, 447, 435, 434, 416 in village Dhawaiya and Plot No. 435 in village Semraberā and meets at point 'C'.

C-D Lines passes from Point 'C' through Plot Nos. 435, 460 in village Semraberā and Plot No. 434, 437, 438, 466, 451, 452, 671, 673, 674, 686, 685, 684, 683, 780, 774, 787, 811, 810, 823, 824, 623, 621, 882, 880, 882, 571, 575, 594, 502, 506, 558 in village Dhawaiya & meets at Point 'D'.

D-E-F Line passes from Point 'D' through along with Eastern boundary of Damodar river and meets at Point 'F' in village Dhawaiya.

F-G Line passes from Point 'F' through Plot No. 280, 277 in village Dhawaiya and Plot No. 1009 in village Gopo and meets at Point 'Q'.

G-H- A Line passes from Point 'G' through Plot Nos. 1009, 1011 in village Gopo and in village Dhawaiya Plot Nos. 273, 276, 271, 270, 135, 266, 135, 264, 262, 259, 257, 253, 248, 246, 244, 243, 223, 177, 174, 167, 166, 105, 107, 108, 109, 111, 112, 111, 115, 118, 47, 120, 122, 124, 125 and meets at starting point 'a'.

BLOCK 'B'

H-I-J-K-L-M Line starts from Point 'I' through Plot Nos. 367, 400, 404, 367, 407, 392, 367, 520, 521, 523, 519, 517, 514, 515, 513, 512, 932, 935, 936, 944, 940, 924, 925, 926, 527, 528, 530, 529, 530, 532, 536, 535, 534, 909, 895 in village Semraber and meets at Point 'M'.

M-N-O-P-Q Line passes from Point 'M' through Plot Nos. 895, 904, 903, 901, 895, 959, 960, 961, 974, 976, 975, 979, 1206, 1027, 1206, 874, 873, 855, 856, 869, 859, 860, 862, 863, 816, 815, 813, 893, 726, 727, 728, 725, 730, 732, 696, 695, 636, 766, 636 in village Semraber and meets at Point "Q".

Q-R Line passes through Point 'Q' along with southern boundary of Damodar river in village Semraber and Dhawaiya and meets at Point 'R'.

R-S Line passes through Point 'R' Plot Nos. 1190, 1171, 1178, 1190, 1156, 1144, 1154, 1153, 1194, 1195, 1194, 1197, 1118, 1210, 1205, 1207, 1231 in village Dhawaiya and meets at Point 'S'.

S-T Line passes through points along with western boundary of Damodar river in village Dhawaiya and meets at Point 'T'.

T-U-V-W-I Line passes through Point 'T' Plot Nos. 946, 947, 954, 955, 956, 957, 1089, 1231, 1230, 1227, 1225, 1228, 1210, 1215, 1213, 1210, 1212, 1210, 1211, 1210, 1099, 1100, 1097, 1042, 1041, 1097, 1097, 1040, 1043, 1044, 1045, 1046, 1049, 1047, 1034, 1033, 1010 in village Dhawaiya and Plot Nos. 1137, 1133, 1140, 1036, 1027, 1015, 1018, 1007, 1009, 1036, 1039, 1042, 1043, 1052, 1050, 1052, 1051, 485, 491, 492, 424, 427, 429, 430, 431, 404 and meets at starting Point 'T' in village Semraber.

BLOCK 'C'

X-Y Lines start from Point 'X' in village Dhawaiya in Plot Nos. 1247, 1246, 1243, 1190 and meets at Point 'Y'.

Y-Z-X Line starts from Point 'Y' with northern-eastern boundary of Damodar river and meets at starting point 'X' in village Dhawaiya through point 'Z'.

[F.No.-43015/19/2009-PRIW-I]

S. C. BHATIA, Director

आदेश

नई दिल्ली, 2 सितम्बर, 2011

का.आ. 2409.—कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 9 की उप-धारा (1) के अधीन जारी की गई भारत सरकार के कोयला मंत्रालय की अधिसूचना संख्यांक का.आ. 228, तारीख 14 जनवरी, 2011 के भारत के राजपत्र, भाग-II, खण्ड-3, उप-खण्ड (ii) तारीख 22 जनवरी, 2011 में प्रकाशित होने पर उक्त अधिसूचना से संलग्न अनुसूची में वर्णित भूमि और भूमि में, या उस पर के सभी अधिकार, (जिसे इसमें इसके पश्चात् उक्त भूमि कहा गया है) उक्त अधिनियम की धारा 10 की उप-धारा (1) के अधीन, सभी विल्लंगमों से मुक्त होकर, आत्यंतिक रूप से केन्द्रीय सरकार में निहित हो गए थे;

और केन्द्रीय सरकार का यह समाधान हो गया है कि साउथ ईस्टर्न कोलफील्ड्स लिमिटेड, सीपत रोड, डाकघर संख्या 60, जिला-बिलासपुर-495 006 (छत्तीसगढ़) (जिसे इसमें इसके पश्चात् उक्त सरकारी कंपनी कहा गया है) ऐसे निबंधनों और शर्तों का, जो केन्द्रीय सरकार इस निमित्त अधिरोपित करना उचित समझे, अनुपालन करने के लिए तैयार है;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 11 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि इस प्रकार निहित उक्त भूमि और उस पर के सभी अधिकार, तारीख 22 जनवरी, 2011 से केन्द्रीय सरकार में इस प्रकार निहित बने रहने के सिवाय, निम्नलिखित निबंधनों और शर्तों के अधीन रहते हुए, उक्त सरकारी कंपनी में निहित हो जाएंगे, अर्थात् :-

1. उक्त सरकारी कंपनी, उक्त अधिनियम के उपबंधों के अधीन यथा अवधारित प्रतिकर, ब्याज, नुकसान और वैसी ही मदों की बाबत किए गये सभी संदायों की केन्द्रीय सरकार को प्रतिपूर्ति करेगी;
2. उक्त सरकारी कंपनी द्वारा शर्त (1) के अधीन केन्द्रीय सरकार को संदेय रकमों का अवधारण करने के प्रयोजन के लिए उक्त अधिनियम की धारा 14 के अधीन एक अधिकरण का गठन किया जाएगा तथा ऐसे किसी अधिकरण और ऐसे अधिकरण की सहायता करने के लिए नियुक्त व्यक्तियों के संबंध में उपगत सभी व्यय, उक्त कंपनी द्वारा वहन किये जायेंगे और इसी प्रकार निहित उक्त भूमि में या उस पर के अधिकार के लिये या उसके संबंध में जैसे अपील आदि सभी विधिक कार्यवाहियों की बाबत उपगत, सभी व्यय भी, इसी प्रकार उक्त सरकारी कंपनी द्वारा वहन किये जाएंगे;
3. उक्त सरकारी कंपनी, केन्द्रीय सरकार या उसके पदाधारियों की, ऐसे किसी अन्य व्यय के संबंध में क्षतिपूर्ति करेगी, जो इस प्रकार निहित उक्त भूमि में या उस पर के अधिकारों के बारे में, केन्द्रीय सरकार या उसके पदाधारियों द्वारा या उनके विरुद्ध किन्हीं कार्यवाहियों के संबंध में आवश्यक हो;
4. उक्त सरकारी कंपनी को, केन्द्रीय सरकार के पूर्व अनुमोदन के बिना, उक्त भूमि और भूमि में या उसके ऊपर इस प्रकार निहित अधिकार को किसी अन्य व्यक्ति को अंतरित करने की शक्ति नहीं होगी; और
5. उक्त सरकारी कंपनी, ऐसे निदेशों और शर्तों का, जो केन्द्रीय सरकार द्वारा, जब कभी आवश्यक हो, उक्त भूमि के विशिष्ट क्षेत्रों के लिये दिए जाएं या अधिरोपित की जाए, पालन करेगी।

[फा. सं.-43015/24/2008-पी आर आई डब्ल्यू-1]

एस. सी. भाटिया, निदेशक

ORDER

New Delhi, the 2nd September, 2011

S.O. 2409.— Whereas, on the publication of the notification of the Government of India in the Ministry of Coal, number S.O.228, dated the 14th January, 2011 published in the Gazette of India, Part II, Section 3, Sub-section (ii) dated the 22nd January, 2011, issued under sub-section (1) of Section 9 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), (hereinafter referred to as the said Act), the land and all rights in or over the land described in the Schedule appended to the said notification (hereinafter referred to as the said land) vested absolutely in the Central Government free from all encumbrances under sub-section (1) of Section 10 of the said Act;

And whereas, the Central Government is satisfied that the South Eastern Coalfields Limited, Seepat Road, Post Box number 60, District Bilaspur-495006 (Chhattisgarh) (hereinafter referred to as the Government Company) is willing to comply with such terms and conditions as the Central Government thinks fit to impose in this behalf;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 11 of the said Act, the Central Government hereby directs that the all rights in or over the said land so vested shall with effect from the 22nd January, 2011, instead of continuing to so vest in the Central Government, shall vest in the said Government Company, subject to the following terms and conditions, namely :—

1. The Government Company shall reimburse to the Central Government all payments made in respect of compensation, interest, damages and the like, as determined under the provisions of the said Act;
2. A Tribunal shall be constituted under section 14 of the said Act, for the purpose of determining the amounts payable to the Central Government by the said Government Company under condition (1) and all expenditure incurred in connection with any such tribunal and persons appointed to assist the tribunal shall be borne by the said Government Company and similarly, all expenditure incurred in respect of all legal proceedings like appeals, etc. for or in connection with the rights, in or over the said land, so vested, shall also be borne by the said Government Company;
3. The said Government Company shall indemnify the Central Government or its officials against any other expenditure that may be necessary in connection with any proceedings by or against the Central Government or its officials regarding the rights in or over the said land so vested;
4. The said Government Company shall have no power to transfer the said land to any other persons without the prior approval of the Central Government; and
5. The said Government Company shall abide by such directions and conditions as may be given or imposed by the Central Government for particular areas of the said land, as and when necessary.

[F.No.-43015/24/2008-PRIW-I]

S. C. BHATIA, Director

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 10 अगस्त, 2011

का.आ. 2410.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूको बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, धनबाद के पंचाट (संदर्भ संख्या 66/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-8-2011 को प्राप्त हुआ था।

[सं. एल-12011/46/2006-आईआर (बी-II)]

रमेश सिंह, डेस्क अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 10th August, 2011

S.O. 2410.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 66/2006) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Dhanbad as shown in the Annexure in the industrial dispute between the management of UCO Bank and their workmen, received by the Central Government on 10-8-2011.

[No. L-12011/46/2006-IR (B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE

**BEFORE LOK ADALAT AT CENTRAL
GOVERNMENT INDUSTRIAL TRIBUNAL
(No. 2), DHANBAD**

Present : Shri Kishori Ram, Presiding Officer

In the matter of an Industrial Dispute under Section
10(1) (d) of the I.D. Act, 1947.

Reference No. 66 of 2006

Parties : Employers in relation to the management of UCO
Bank and their workman.

APPEARANCES :

On behalf of the workman : None

On behalf of the employers : None

State : Jharkhand Industry : Banking

Dated, Dhanbad, the 27th June, 2011

ORDER

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1) (d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-12011/46/2006-IR(B-II) dated 11-10-2006.

SCHEDULE

“Whether the demand made by the UCO Bank Employees’ Union, Patna for regularisation of service of Shri Satya Narain Prasad Gupta who claimed to have been working as part-time sweeper for nearly 20 years, is legal and justified? If not, what relief the concerned workman is entitled to?”

2. To-day the case put up before the Lok Adalat for settlement.

3. Perused the case record. I find that the present reference case relates to the demand of the UCO Bank Employees Union, Patna for the regularisation of the service of Shri Satya Narain Pd. Gupta working as Part-time Sweeper for about 20 years. The case has been running for filing rejoinder on behalf of the workman. Meanwhile, Mr. B. Prasad, the State Secretary of the Union concerned by petitions dt. 10-3-11 and 21-6-11 has to submit that following an Industry Level Settlement dated 27-4-2010, the grievance of the workman has been redressed and the service of the workman has been regularised, resulting in non-existence of the dispute.

In view of the aforesaid regularisation of the service of the workman as per the Industrial Level Settlement dt. 27-4-2010, I find no longer the dispute exists. Hence, it is closed and disposed of accordingly.

KISHORI RAM, Presiding Officer

नई दिल्ली, 10 अगस्त, 2011

का.आ. 2411.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कॉर्पोरेशन बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बंगलौर के पंचाट (संदर्भ संख्या 210/1997) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-8-2011 को प्राप्त हुआ था।

[सं. एल-12012/425/1995-आईआर (बी-II)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 10th August, 2011

S.O. 2411.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 210/1997) of the Central Government Industrial Tribunal/Labour Court, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Corporation Bank and their workman, which was received by the Central Government on 10-8-2011.

[No. L-12012/425/1995-IR (B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
BANGALORE

Dated : 20th July, 2011

Present : Shri S.N. Naval Gund, Presiding Officer

C.R. No. 210/1997

I PARTY

The Organising Secretary,
 All India Bank Deposit Collectors,
 Association C/o Indian Bank,
 B.H. Road, Shimoga, Karnataka State

II PARTY

The Chairman and Managing Director,
 Corporation Bank, Head Office, P.B. No. 88,
 Mangalore-575 001

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section (1) and sub-section 2A of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) has referred this dispute vide order No. L-12012/425/95-1R(B-II) dated 4-3-1997 for adjudication on the following Schedule :

SCHEDULE

“Whether Shri M.S. Ananthanarayana, Janata Deposit Collector of Corporation Bank, Mattur branch was a workman? If yes, whether the management of Corporation Bank is justified by terminating the vacancy of Shri Ananthanarayana w.e.f. 17-6-1994? If not, to what relief the said workman is entitled and from what date?”

2. In the Claim Statement filed on 19-11-1998 under the signatures of S/Shri M.S. Ananthanarayana, Pigmy Collector and S. Sridharamurthy, Organising Secretary, All India Bank Deposit Collectors Association at whose instance this reference has been made it is alleged that Shri M.S. Ananthanarayana was appointed as Janatha Deposit Collector of Corporation Bank, Mattur branch under letter No. OR/635/82 dated 7-12-1982 and was assigned to collect the daily contributions at the doors of the Janatha depositors and accordingly he was collecting daily contributions from the depositors and by his sincere work increased the number of depositors and all of a sudden without assigning any reasons the bank manager asked him to surrender the Deposit collection cards and instructed to stop collection on 4-6-1994 and immediately thereafter he submitted a letter to the branch manager dated 17-6-1994 requesting to inform him the reason for surrendering Deposit Collection Cards and he was told that he has forwarded his representation to the higher authorities and he has to wait for reply and in the

meanwhile the depositors and Mandal. Chief gave a joint representation to the bank manager highlighting his services further requesting to continue his service and inspite of it the bank failed to communicate the reason for asking him to surrender the deposit collection cards and by letter No. OR/1049/94-95 dated 30-1-1995 informed him, his services being terminated without assigning any reason or holding any enquiry. It is further stated in the claim statement that deposit collection and the commission received was the only source of the earnings for him and in order to protect his interest Shimoga District Deposit Collectors Association affiliated to All India Bank Deposit Collectors Association in which he was a member has taken up his case, which is opposed to the principles of natural justice. It is also stated in the claim statement that in the recently concluded award of Industrial Tribunal, Alleppy in the case of P.S. Sathesesan Pillai, Pigmy Agent Vs. Management of Syndicate Bank has held termination without any reason is illegal and awarded reinstatement with back wages. With these allegations it is prayed to declare the termination without assigning any reason being illegal and to order for reinstatement with back wages from June 1994 till the date of reinstatement on calculated monthly commission previously earned by him.

3. In the counter statement filed on behalf of the second party dated 4-1-1998 it is contended there being no relationship of employee and employer between the first party and the second party as defined in Section 2(s) of the Industrial Disputes Act, 1947, the reference is bad. It is further contended as per the agency agreement dated 7-12-1982 the first party was only acting as an agent to the second party to mobilize funds under the Janata Deposit Scheme for commission and as per the terms of the contract the second party being entitle to terminate the contract whether there existed breach of the terms of the contract or not by giving one month notice his termination by letter dated 30-1-1995 is legal and he has no right to raise such a dispute and if at all he has any grievance in relation to the said action the only remedy for him is to file a suit. It is further contended that there were several oral complaints of misappropriation against the first party and one Ahmed who had availed loan under DLS 11/1003 against his deposits was regularly entrusting money to the first party towards the repayment of the said loan account and on 8-4-1992 he complained the bank the first party having short credited a sum of Rs. 3450 and detailed investigation revealed the first party having misappropriated total sum of Rs.7054 collected from the depositors the bank had directed him to surrender Janata Deposit Cards and directed not to collect further deposits and by letter dated 30-1-1995 terminated his agency agreement. It is further contended this tribunal in CR No. 65/91 between Shri B. Somashekhara and the second party bank and in CR.26/91 between Shri Nagappa and State Bank of Hyderabad passed award dated 31-8-1994 and 31-12-1994

respectively holding that deposit collectors are not workman under Section 2(s) of the ID Act, 1947 as such the first party who was just an agent to collect the deposits being is not a workman the reference is liable for rejection.

4. After filing the counter statement by the Second party the first party on 27-01-1999 filed a rejoinder reiterating the assertions made in the claim statement further contending that the allegations of the respondent bank that he has misappropriated the amount given by one Mr, Sheikh Ahmed is false and that the manager working at that period was not in good terms with him fabricated the issues to support his termination.

5. After completion of the pleadings my Learned Predecessor after recording the evidence of two witnesses, Shri A.P. Suresh, Chief Manager & Shri Ravi V., Manager who claims to have investigated allegations received against the Pigmy Agent for the second party as MW1 & MW2 respectively and marking documents at Ex.M 1 to M18 and the evidence of M.S. Ananthanarayana as WW1, after hearing the arguments addressed by the learned advocates by award dated 10-01-2002 partly allowed the reference directing the management to regularize the first party workman keeping in mind the law laid down by the Hon'ble Supreme Court of India in the case reported in AIR 2001 SCW 749 (mistyped as 'AIR' which ought to have been 'LLJ') and when this award was challenged by the second party before the Hon'ble High Court of Karnataka in Writ Petition No. 26196 of 2003(L-TER) by order dated 6-12-2007 the award came to be quashed on the ground that this tribunal failed to asses and appreciate the evidence brought on record by both the sides and to give a finding whether second party has proved the charge of misappropriation and remitted back the matter for fresh disposal in accordance with. law after providing an opportunity to. both the parties and also directed the bank to reinstate the first party in terms of the law laid down by the Supreme Court in the case reported in 2001 LLJ SCW 749 within four weeks from the date of that order. Subsequent to the remand by the Hon'ble High Court when notices were issued to both the sides the learned advocates appeared and addressed their arguments.

6. The Learned Advocate appearing for the first party without highlighting or enlighting the court on the issue of misappropriation, evidence in respect of which has been lead and simply submitted that since service of first party workman was terminated without any enquiry and being reinstated as per the order of Hon'ble High Court from date of termination i.e. 17-6-1994 till reinstatement in the month of January 2008 he is entitle to benefits as per Supreme Court decision. Inter alia the learned counsel appearing for the second party submitting that the evidence brought on record being sufficient to show that the first party was in the habit of collecting money from customers and some times not depositing same in the bank, as such, his agency being terminated it is just and proper. He also

drawing my attention to clause 5 of the Agreement of Appointment of first party workman as Janatha Deposit Collector urged that since it has the liberty to determine the agreement by a month notice his agency being terminated by one month notice as per Ex. M16 it is just and proper.

7. In view of the facts narrated by me above the points that arises for my consideration are—

- (i) Whether Shri M.S. Ananthamarayana, Janatha Deposit Collector of Corporation Bank, Mattur branch was a workman?
- (ii) If yes, whether the management of corporation bank is justified in terminating his agency with effect from 17-06-1994?
- (iii) If not, to what relief Shri M.S Ananthanarayana is entitle and from which date?

8. On appreciation of the pleadings of both the sides with the evidence brought on record in the light of the arguments addressed by the learned advocates my finding on the above points are as under :—

Point No.(i) : Affirmative

Point No.(ii) : Affirmative

Point No.(iii) : As per final order for the following reasons :

Reasons :

9. Point No.(i) : It appears before the conciliation officer the second party must have contended that Shri Ananthanarayana being just an agent for collecting the amount under the Janatha Deposit Scheme and was not regularly appointed workman, in the first part of the reference the Central Government called upon to decide whether he was a workman. Having regard to the decision of the Apex Court in the case of Indian Bank Association Vs. Workmen of Syndicate Bank and others reported in AIR 2001 SC 946 (equivalent to LLJ 2000 SCW 749) wherein it has been held deposit collectors of bank are workman within the meaning of Industrial', Dispute Act though their work is different from that of regular employees, no argument was advanced by the second party counsel on this part of the reference. The Hon'ble Supreme Court in the case of Indian Bank Association Vs. the workmen of Syndicate Bank and others having upheld the decision of the Industrial Tribunal, Hyderabad pigmy collectors being workman holding that they are accountable to the bank and are under control of the bank there is master and servant relationship between the bank and the deposit collectors, in the instant case there being no dispute that Shri Ananthanarayana was being appointed as Janatha Deposit Collector by the second party, this point of the reference is required to be answered in the affirmative. Accordingly I answer Point No.1 in affirmative as he was being the workman.

10. Point (ii) : Though no enquiry was conducted by the second party against the first party workman before his agency was terminated or any reasons are assigned, under intimation dated 30-01-1995 the copy of which has been produced at Ex.M6 and it is now contended that since the first party workman was not regular in discharging of his duties and had developed habit of misappropriating the money collected from the customers such a termination being made and in this connection the Hon'ble High Court while setting aside the earlier award passed by my learned Predecessor in W.P No.26196/2003(L-TER) while referring to the decision of the Hon'ble Supreme Court of India in the case of Workman of Firestone Type & Rubber Co. Ltd. Vs. The Management reported in AIR 1973 SC 1227, quoting the relevant portion which reads as "the mere fact that no enquiry or defective enquiry has been held by the employer does not by itself render the dismissal of the workman illegal. The right of employer to adduce evidence justifying his action for the first time in such a case is not taken away by the proviso in Section 11-A" directed to assess the material on record and to give a finding whether the bank has proved the charge of misappropriation against the first party workman in appreciating this aspect of the reference it is necessary to consider the pleadings of both the parties and the evidence adduced touching this aspect of the case.

11. MW1, Shri A.P. Suresh claims to have worked as Mattur branch Manager of the Second party bank during 1992 to 1994 deposed that Shri Ananthanarayana who was appointed as Janatha Deposit Collector as per Ex.M-1 was supposed to collect the pigmy amount from the customers and making entries in the collection card to take the signature of the depositor and credit the same to the bank next day but he was not remitting amount collected by him regularly as such he was informed orally on several occasions and even in writing to stop such practice and in that relation many complaints were received from the customers orally as well as in writing and on such allegations investigation was made and misappropriation of fund was found and he also agreed/confessed further undertaking that he would improve in future but did not improve, as such, after several correspondence in this regard with higher ups it was resulted in termination of his agency as per Ex.M-16. He also got marked Ex.M-2 to M-16 as correspondences in this regard. MW2, Shri Ravi. V. claims that while he was working at Mattur branch of the second party bank on the instruction from the head office to make investigation in respect of the allegations made against the pigmy collector he approached customer Smt. Pramillamma, Guligappa and Sheik Ahmed and found certain amounts collected by the first party workman from those customers being not credited to the bank and accordingly he submitted his detailed report as per Ex.M-8.

12. It is borne out from the documentary evidence produced for the second party that when one customer of the second party bank by name Shri Sheik Ahmed filed

complaint dated 08-04-1994 copy of which is at Ex. M-3 to the effect that he is finding difference in his pigmy amount and loan account and requested to enquire the pigmy collector in this regard and to correct it, the first party workman by his letter/reply dated 15-04-1994 the copy of which are at Ex. M6(d), Ex.M8(i) admitting that out of the money collected by him from Shri Sheik Ahmed he has omitted to credit a sum of Rs. 3050 undertaken to make it good on or before 22-04-1994. With reference to this letter or any other complaints filed by the customers without whispering anything in the claim statement jointly filed by the Pigmy Collectors, S/Shri M.S. Ananthanarayana & Shri S. Sridhara Murthy it is contended that his service was terminated without any reason and having regard to this documentary evidence, for the first time in the rejoinder filed by them on 27-01-1999 it is stated the Manager working at that period was being not in good terms with him fabricated the issues to support the termination and for the first time in the cross examination of MW1 it is introduced that this document was being taken by force whereas, in the evidence of the first party workman he came out with a version that when one party complained against him he gave undertaking that he will not do any irregularities on threatening by the manager and that he has not misappropriated any amount of the customers. This theory of obtaining such letter by threat is just an improvement some how to overcome a clear cut admission made by him having misutilised/misappropriated the amount collected from the customer. Of course it has come in the evidence of MW1 that first party workman was appointed just to collect the deposits from pigmy depositors and not any other amount and this amount relating to Shri Sheik Ahmed was in respect of his loan account. Though the first party workman was appointed to collect the pigmy account only, the evidence indicate that he was also collecting the installment of loans availed by the pigmy depositors on their deposits and was depositing the same in the bank. Moreover, admittedly Mattur Branch was in remote rural area the customers who are all illiterate may not be knowing any distinction between the pigmy agent and regular employee of the bank and as per the practice must be entrusting the money towards repayment of the loan with the pigmy agent/the first party workman and he misutilising the same is nothing but misappropriation or cheating the customers of the bank tarnishing the image of the bank. The voluminous correspondences produced for the management at Ex.M2 to M16 do suggest that in view of several oral and written complaints against the first party workman by the customers of the bank, management after getting investigated through MW2 arrived at the decision of terminating his services and accordingly terminated his services by letter dated 30-1-1995, copy of which is at Ex.M16.

13. Such act on the part of the first party workman is also supported by the representation given by the Karnataka Pradesh Bank's Deposit Collectors Federation

at whose instance this reference has been made produced at Ex. M13. In this letter written by the organizing Secretary of All India Deposit Collectors Federation it is submitted Mr. M.S. Ananthanarayana being from a very poor family having no other means except Janatha Deposit Commission and they have advised him not to do such mistake in future and he has agreed and repented for his lapses. When this document at Ex. M13 was confronted to WW1 in his cross examination he just tried to escape submitting that it is one given by the union and he did not know anything about it. This reference itself being the result of cause taken by this organization and it has also been mentioned in the claim statement that All India Bank Deposit Collectors Organisation is the sole organization to protect the interest of deposit collectors (vide para 7 of the Claim Statement) such an escapism on the part of the first party workman is of no avail to him. Therefore, I am of the opinion that the termination of the agency of Shri M.S. Ananthanarayana by the second party is not whimsical and it is on having found that he was misutilising the amount collected by him from the customers. Under the circumstances I arrived at the conclusion of answering this point in the affirmative i.e. the second party bank is justified in terminating his agency w.e.f. one month from 30-1-1995 under Ex. M16.

14. **Point No. (iii) :** On the face of reading the reference and consequently this point raised by me it would appear that this point would arise for consideration only in the event it is held the termination is not justified. But in view of the decision of the Industrial Tribunal, Hyderabad in ID No.14/1980 dated 22-12-1988 upheld by the Andhra Pradesh High Court and further by the Apex Court as reported in AIR 2001 SC 946 even when the services of the Pigmy Agent is terminated he being entitle for certain benefits, same has to be taken in consideration, the Industrial Tribunal, Hyderabad in the case of Workmen of Syndicate Bank and 47 other banks and the Management of Syndicate Bank and 47 other banks in ID No. 14/1980 by award dated 22-12-1988 while considering the nature of the work of the pigmy agents concluded that they are workmen and the commission paid to them as wages, further held that they are entitle for gratuity by 15 days commission for each year of service and same has been upheld by the Hon'ble Andhra Pradesh High Court and Hon'ble Supreme Court in W.P. No. 9783/89 by order dated 28-3-1997 and CA No. 3355/1998 by order dated 13-2-2001 respectively. Therefore, admittedly the first party workman Shri Ananthanarayana being appointed as Janatha Deposit Collector of second party bank from 7th December, 1982 and his services came to be terminated w.e.f. one month from 30-1-1995 as per Ex. M.16 his total service works out to 12 years 27 days the bank is liable to pay him 15 days wages for each year of service the details of which must be with the bank. In the result I arrived at the conclusion that the first party workman is entitle for 15 days wages for each year of service rendered by him.

15. In the result I pass the following award:

AWARD

The reference is partly allowed holding that Shri Ananthanarayana, Janatha deposit collector of Corporation Bank of Mattur branch was a workman and that his termination by the management w.e.f. 28-2-1995 is justified and that Shri Ananthanarayana is entitle for 15 days wages as gratuity for each year of his service i.e. from 7-12-1982 to 28-02-1995 as held by the Industrial Tribunal Hyderabad in ID No.14/1980 upheld by the Andhra Pradesh High Court and the Apex Court in W.P. No. 9783/89 and CA No.3355/1998 respectively. The second party within 2 months from the date of publication of the award work out the gratuity payable to him taking into account the wages paid to him during this period of service from 7-12-1982 to 28-2-1995 and pay to him. In case of default to make payment of this amount within the stipulated period it shall carry interest at the rate of 8 per cent per annum from the date payable uptill it is actually paid.

(Dictated to PA transcribed by her corrected and signed by me on 20-7-2011).

S. N. NAVALGUND, Presiding Officer

Annexure -CR No. 210/1997

List of witnesses examined by the management.

- | | |
|------------------------------------|-----|
| 1. Shri A.P. Suresh, Chief Manager | MW1 |
| 2. Shri Ravi V. Manager | MW2 |

Documents exhibited for the Management

- | | |
|---|--------|
| 1. Agency agreement between the first party and the second party dated 7-12-1982. | Ex. M1 |
| 2. Letter of the Manager, Mattur branch dated 21-5-1994 addressed to the Regional Manager reporting about a complaint received from a customer Shri R.K. Shek Ahmed. | Ex. M2 |
| 3. Complaint by Shri R.K. Shek Ahmed dated 8-4-1994 along with English translation. | Ex. M3 |
| 4. Letter dated 15-4-1994 of the customer Shri Sheikh Ahmed. | Ex. M4 |
| 5. Letter of the Regional Manager, Hassan dated 3-6-1994 addressed to DGM, H.O, Mangalore. | Ex. M5 |
| 6. Letter by the Chief Manager dated 23-6-1994 addressed to the General Manager to conduct investigation into the complaints received against the first party along with annexures. | Ex. M6 |
| 7. Letter dated 15-4-1994 of the first party for having admitted the mistake committed by him. | Ex. M7 |
| 8. Joint Report dated 18-7-1994 of Shri M.G. Bhandarkar, Inspecting Officer | Ex. M8 |

- and Shri V. Ravi Manager, Mattur branch along with enclosures.
9. Letter of the Manager, Mattur branch, dated 19-7-1994 addressed to AGM, Inspection and Audit Division, HO, Mangalore with enclosures. Ex. M9
10. Letter of Chief Manager dated 27-7-1994 addressed to the Manager, Mattur branch regarding misappropriations allegedly committed by the JDC, M.S. Ananthanarayana. Ex. M10
11. Letter of the Manager, Mattur branch dated 24-8-1994 addressed to AGM Inspection and Audit Division along with complaint of Shri Devla Nayaka dated 9-8-1994. Ex. M11
12. Letter of the Manager, Mattur branch dated 12-10-1994 addressed to AGM, Inspection & Audit Division along with report of fraud. Ex. M12
13. Letter dated Nil of Shri S. Sridhara Murthy, Organizing Secretary, Karnataka Pradesh Banks Deposit Collectors Federation received on 3-2-1994. Ex. M13
14. Letter of the Inspection and Audit Division dated 12-11-1994 addressed to the Chief Manager, HO, Mangalore regarding misappropriation committed by Shri M.S. Ananthanarayana. Ex. M14
15. Letter of the Chief Manager dated 22-11-1994 to Mattur branch regarding Shri M.S. Ananthanarayana, JD Collector termination. Ex. M15
16. Letter of the Manager, Mattur branch dated 30-1-1995 addressed to first party giving one month's notice for termination of agency as per terms of agreement. Ex. M16
17. Letter dated 23-3-1995 of second party notifying the termination agreement of first party in local newspaper dated 19-3-1995. Ex. M17
18. Copy of the newspaper dated 19-3-1995 notifying the first party has seized to be JD, Collector w.e.f. 1-3-1995. Ex. M18

List of witnesses examined for the first party.

1. Shri Ananthanarayana WW1

List of Documents marked for 1st party.

Nil

नई दिल्ली, 10 अगस्त, 2011

का.आ. 2412.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सिंडिकेट बैंक

के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बंगलौर के पंचाट (संदर्भ संख्या 237/1997) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-8-2011 को प्राप्त हुआ था।

[सं. एल-12012/153/1996-आईआर (बी-II)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 10th August, 2011

S.O. 2412.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 237/1997) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure in the industrial dispute between the management of Syndicate Bank and their workmen, received by the Central Government on 10-8-2011.

[No. L-12012/153/1996-IR (B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT,
BANGALORE**

Dated : 13th July, 2011

Present : Shri S. N. Navalgund, Presiding Officer

C. R. No. 237/1997

I PARTY : Shri K. Gangadhar,
No.7/A, 4th Main Road,
Palace Gutthalli,
BANGALORE.- Since deceased by his
LRs

(1) M.B. Chandramma, Wife,
(2) Kavitha.G, Daughter
(3) Sunitha.G, Daughter all residing
at No.99, Sri Annapurneshwary Nilaya,
4th Cross, Nisarga Lay Out,
Sidedahalli Main Road, Bonemill,
BANGALORE.

II PARTY : The General Manager,
Syndicate Bank,
Head Office,
Manipal-560003

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section (ii) and sub-section 2A of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) has referred this dispute vide order No.L-12012/153/96-IR(B-II) dated 16-05-1997 for adjudication on the following Schedule.

SCHEDULE

Whether the action of the management of Syndicate bank is justified in dismissing Shri K. Gangadhar from service w.e.f. 3-4-1993? If not, to what relief the workman is entitled?

2. The brief facts leading to this reference and award may be stated as under :

Shri K. Gangadhar now deceased (hereinafter referred as deceased first party for the sake convenience) joined the services of the Syndicate Bank (hereinafter referred as the Second Party for the sake convenience as Peon by virtue of the order issued by the management of the second party dated 26-12-1984 which service came to be confirmed by the second party w.e.f. 11-7-1985. Thereafter while the first party was serving at Malleshwaram Main branch of the Second Party bank charge sheet dated 15-11-1991 as per Ex.M1 came to be served on him in the following terms:

Charge Sheet

That during the period between 11-1-1985 and 18-05-1990 you were functioning as Attender at our Malleshwaram Main Branch, Bangalore. That on 26-4-1990, you remitted a sum of Rs.32,000 at the branch earmarking the credit towards Suspense Account.

Following circumstances appear on record in respect of the above remittance :

That on 20-4-1990, a sum of Rs. 60,000 was paid by the branch against a cheque and that on 23-4-1990, the officials working at the branch found—

- (a) that a portion of the cashier's payment scroll dated 20-4-1990 was torn out and half of the bottom portion of the scroll was missing and;
- (b) that the Manager's scroll dated 20-4-1990 was missing and;
- (c) that the paid cheque for Rs.60,000 was also not available.

That when enquiries were going on in the branch in the above matter, on 26-4-1990 you addressed a letter to the branch manager on your own, informing him inter alia as under :—

- (i) that you issued Token No. 23 in respect of a cheque without the cheque being deposited at the branch and
- (ii) that later you facilitated payment of the cheque without it being debited to the account on which it was drawn;
- (iii) that thereafter, you removed the paid cheque from the branch records and gave it to S/Shri U.S. Narayana, working at our Balepet branch, Bangalore. Shri Shivalingaiah working at our Yeshwanthpur branch, Bangalore and Shri Puttaswamy, an outsider,

- (iv) that you received a sum of Rs.32,000 from the said Shri U.S. Narayana, Shivalingaiah and Puttaswamy etc.

That on 26-4-1990 you reimbursed a sum of Rs.32,000 to the Bank, stating that the amount related to the fraudulent withdrawal of Rs. 60,000 made from the branch on 20-4-1990 etc.

The above circumstances go to indicate—

- (a) that you withdrew/facilitated withdrawal of a sum of Rs.60,000 from the branch on 20-4-1990 by fraudulent means and dubious methods.
- (b) That in order to cover up such acts on your part, you removed/caused to be removed from the branch records, the relative paid cheque and the Manager's scroll dated 20-4-1990 and destroyed them/caused their destructions and that you also torn out/caused to be torn out relevant portion of the Cashier's payment scroll dated 20-4-1990.

By your above acts, you committed acts of "Gross Misconduct" within the meaning of Clauses No. 19.5 of the Bipartite Settlement. We therefore, charge you "for doing acts prejudicial to the interests of the Bank", vide clause No.19.5(j) of the Bipartite Settlement. Please let us have your statement of defence if any, within 15 days from the date of receipt of this charge sheet by you. Pending enquiry into this charge sheet, you will continue to be under suspension until further orders.

3. It transpires from the records of the second party that the first party since did not reply to the charge sheet by submitting his reply or the explanation the second party management appointed Shri Sukumar R. Rao, Asst. Personal Manager as enquiry officer as per letter produced at Ex.M2 dated 06-01-1992 and then the enquiry notices sent to the first party by the enquiry officer through RPAD as per Ex.M3 returned undelivered with an endorsement 'not claimed', the enquiry officer proceeded with enquiry, as exparte, and ultimately after recording the evidence of Shri M.V. Bhandary, Manager (Insp.) as MW1, Shri R.B. Karkera, Sub Manager as MW2, Shri H.K. Gururaj, Assistant Manager as MW3, Shri Y. Chidanandaiah, Manager as MW4, Shri M. Krishnamurthy, Sub staff as MW5, Smt. L. Sudha, Clerk as MW6, Smt. N. Shobha, Clerk as MW7 Shri Ramkumar, Clerk as MW8, and Shri R. Nagaraj, Special Assistant as MW9 and Shri K.N. Ananthakumar, Clerk and exhibiting MEX.1 to MEX. 4 concluding the enquiry submitted his findings dated 30-9-1992 as per Ex.M16 holding the first party guilty of the charges leveled against him in the charge sheet. Thereafter the Disciplinary Authority calling upon the first party to show cause, having not received any response passed the impugned order of dismissal, w.e.f. 03-4-1993. Then the first party preferred appeal as per Ex.M15 and as the Appellate Authority confirmed the order of Disciplinary Authority, the first party raised the dispute

and conciliation officer since failed to resolve it, the Central Government made this reference.

4. The first party in his claim statement filed before this tribunal on 4-2-1998 challenged the dismissal order as unjust and illegal and that the enquiry findings as perverse and the proceedings of enquiry conducted against him being opposed to the principles of natural justice. He also contended that as per the bipartite settlement if the management has prosecuted its employee for the very charge of misconduct alleged in the charge sheet and if he were to be convicted then he is liable for dismissal whereas in case of acquittal it shall be open for the management to proceed against him either for gross or minor misconduct and that during the pendency of criminal case disciplinary proceedings should not have been initiated against him as such pending the criminal case initiated on the complaint filed by the second party on the same set of charges proceeding of disciplinary enquiry was contrary to the provisions of Bipartite Settlement and principles of natural justice. He also contended that after he was served with charge sheet he was not served with any enquiry notice and no reasonable opportunity was given to him to participate in the enquiry and the order of dismissal passed on such enquiry is not sustainable. Thus he urged for setting aside the impugned order of dismissal with direction to reinstatement in service with all consequential benefits.

5. Inter alia the management by way of its counter statement contended that though charge sheet was duly served on the first party at his last address known to the management on 04-12-1999, since he did not submit his explanation the enquiry was initiated by appointing Shri Sukumar R. Rao as enquiry officer and the notice sent by the enquiry officer through RPAD since returned with endorsement as "not claimed" rightly he decided to proceed ex parte and ultimately after receiving the evidence of the management through MW1 to MW9, without any alternative submitted his enquiry findings the charges being proved and as the first party did not respond to the show cause notice as well keeping in view the gravity of the misconduct on the part of the first party the appropriate punishment of dismissal being imposed there is nothing to interfere in the said order of dismissal.

6. After completion of the pleadings this tribunal on 21-12-1998 framed the preliminary issue as to "Whether the Domestic Enquiry conducted against the first party by the second party was according to the principles of natural justice and Bipartite Settlement provisions" and after receiving the evidence of management adduced through Shri Sukumar R. Rao, enquiry officer, as MW1 and Ex.M1 to M28 and that of the first party examined as WW1 and Ex.W1 to W3 by order dated 30-6-1999 recorded a finding to the effect that the DE was in accordance with law. Thereafter hearing the learned advocates appearing for both parties by award dated 23-8-2001 the then Presiding Officer rejected the reference. Aggrieved by the aforesaid orders on the DE issue and the award the first party approached the Hon'ble High Court of Karnataka in

Writ Petition No.38465/2002(L-TER) and in that writ petition the Hon'ble High court by order dated 11-8-2006 while upholding the order of this tribunal dated 30-6-1999 pertaining to DE as in accordance with law further observing that the tribunal failed to consider specific plea of the first party regarding his acquittal in CC No.16229/93, on similar charges by judgement dated 01-12-1997 by producing 24 documents and to decide whether proceeding with the DE is in violation of the provisions of paragraphs 19.2, 19.3 and 19.4 of the Bipartite Settlement set aside the award and remitted back the matter to this tribunal for fresh consideration in accordance with law.

7. Subsequent to the order of the Hon'ble High Court in Writ Petition No.38465/2002(L-TER) my learned Predecessor once again after hearing the arguments addressed by the learned advocates appearing for both the sides afresh by award dated 13-7-2007 dismissed the reference. Aggrieved by this award of my learned Predecessor dated 13-7-2007 again the deceased first party approached the Hon'ble High Court in Writ Petition No.16774/2007(L-TER) wherein by order dated 9-6-2009 again the Hon'ble High Court observing that inspite of the specific direction in its earlier order in Writ Petition No. 38465/2002 to consider the effect of provisions of paragraphs 19.2, 19.3 and 19.4 of the Bipartite Settlement arising out of the pleadings, the Presiding Officer having not considered that aspect of the case, set aside the award and remitted back the matter to this tribunal with direction to give finding on the issue whether the criminal proceedings and the DE were held paralytically within the meaning of paragraphs 19.2, 19.3 and 19.4 of Bipartite Settlement and then to decide the matter in accordance with law.

8. After receipt of the above referred order of the Hon'ble High Court in Writ Petition No.16774/2007 the advocates who were representing the first party and second party earlier before this tribunal filed their memo of appearance expressing to continue their vakalat and the first party counsel while submitting that first party is no more and he would apply to bring his L.Rs., on 9-04-2010 filed three applications, one under Order XXII Rules 3 of CPC to implead wife and two daughters of the deceased first party, another under Order XXII Rule 9 of CPC to set aside abatement and another under Section 5 of Limitation Act to condone the delay in filing the application to set aside abatement and as the counsel for the second party submitted no objection the applications were allowed and he was permitted to bring the wife and two daughters of the deceased first party workman as his legal representatives on record and thereafter once again the arguments addressed by the learned advocates appearing for the parties heard.

9. When this time the matter came up for arguments before me, the learned counsel appearing from the first party without highlighting or enlightening the tribunal anything in respect of the impact of the provisions of paragraph 19 of the Bipartite settlement on the disciplinary enquiry initiated and concluded by the management, he

just submitted that since the reading of the judgment of the criminal court in CC No. 16229/93 it being clear that deceased first party, has been acquitted for want of evidence, as such, the enquiry finding is not sustainable and due to the death of the first party workman is LRs. i.e. wife and two daughters who have been brought on record are entitle for compensation. Whereas the learned advocate appearing for the second party submitted that before in criminal case first party was put on trial departmental enquiry was being initiated by the management and enquiry was concluded before that date, Paragraph 19.4 of the Bipartite Settlement cannot come in the way of punishing the employee taking into account the finding of the enquiry officer and in this reference the DE conducted by the management against the deceased first party workman being found to be in accordance with law and the evidence tendered by the management in the departmental enquiry being left unchallenged by the deceased workman by participating in the enquiry, in the presence of his own unequivocal admission of the charges and remitting part of the misappropriated amount having proved the charges, there is nothing for this tribunal to interfere in the impugned enquiry findings as well as dismissal order and in support of his arguments he cited the decision reported in 2007 LLR 845 Supreme Court.

10. In view of the facts narrated by me above and the specific directions issued -by the Hon'ble High Court in the Second Writ Petition No. 16774/2007 the points that arises for my consideration are —

- (1) Whether there is violation of the provisions of Paragraph 19 of the bipartite settlement by the management in concluding the enquiry and imposing the punishment of dismissal pending criminal case launched against the first party in respect of the very charge of misappropriating or fraud relating to Rs. 60,000 on which the DE came to be held?
- (2) If not, whether the finding of the enquiry officer charge being proved requires any interference?
- (3) What order ?

11. On appreciation of the pleadings of the respective parties, the evidence made available on record in the light of the provisions of paragraphs 19 of the Bipartite Settlement and the arguments addressed by the learned advocates appearing for both sides my finding on the above points are as under for the following reasons:

Reasons :

Point No.1: Touching this point of dispute the pleading of the first party in brief is that the service condition of the first party being governed by the Sastry award as modified by the Industrial Bipartite Settlements signed between the workmen unions and the management bank at the industry level, paragraph 19 of the Bipartite Settlement since provides that wherein the opinion of the management, an employee has committed offence unless

he be otherwise prosecuted the bank may take steps to prosecute him or get him prosecuted and in such a case he may also be suspended and if he was convicted he may be dismissed with effect from the date of his conviction or lesser form of punishment as given In the bipartite settlement and in case he is acquitted it shall be open for the management to proceed against him under the provisions of the Bipartite Settlement either for gross or minor misconduct and if after steps having been taken to prosecute for offence he is not put on trial within a year of the commission of the offences the management may then deal with him as if he committed an act of gross misconduct or of minor misconduct as defined in Bipartite Settlement and if during the pendency of disciplinary proceedings he is put on trial the disciplinary proceedings shall be stayed pending completion of the trial and as in this case the management first filed a complaint against him on 26-4-1990 and then issued charge sheet dated 15-11-1991 and proceeded with the enquiry and the police completing the investigation of the complaint submitted charge sheet to the competent criminal court on 15-1-1993, the management ought not to have proceeded to pass the impugned punishment order dated 3-4-1993 relying on the exparte enquiry findings submitted by its enquiry officer, as such, the same is liable to be set aside. In fact in the counter statement filed for the second party there is no specific reply with regard to this aspect of the contention raised by the first party touching the impact of paragraph 19 of the Bipartite Settlement and it is only contended that there is no legal bar for simultaneous criminal proceedings and disciplinary proceedings going on and during the course of arguments it was submitted by the learned-advocate appearing for the second party that since the enquiry officer appointed by the management concluding the enquiry had submitted his finding as per Ex. M6 on 30-9-1992 itself before the charge sheet was submitted to the criminal court on 15-01-1993 by the police and subsequently punishment alone being imposed by order dated 3-4-1993 there is no violation of provisions of paragraph 19 of the Bipartite Settlement. Now keeping in my mind this aspect of the case let me now proceed to consider the impact of the provisions of Section 19 of the Bipartite Settlement on the case on hand. Before proceeding to consider this aspect on merits I feel it just and appropriate to quote paragraph 19 of the Bipartite settlement which reads as under :—

“Paragraph 19.2 provides that by the expression “offence” shall be meant any offence involving moral turpitude for which an employee is liable to conviction and sentence under any provision of law.

Paragraph 19.3(a) provides when, in the opinion of the management, an employee has committed an offence, unless he be otherwise prosecuted, the bank may take steps to prosecute him or get him prosecuted and, in such a case, he may also be suspended.

Paragraph 19.3(b) provides- If he be convicted, he may be dismissed with effect from the date of his conviction or be given any lesser form of punishment as mentioned in paragraph 6 of this Chapter.

Paragraph 19.3(c) provides that if he be acquitted, it shall be open to the management to proceed against him under the provisions set out in paragraphs 19.11 and 19.12 relating to discharges. However, in the event of the management deciding, after enquiry, not to continue him in service, he shall be liable only for termination of service with three months pay and allowances in lieu of notice. And he shall be deemed to have been on duty during the period of suspension, if any, and shall be entitled to the full pay and allowances minus such subsistence allowance as he has drawn and to all other privileges for the period of suspension provided that if he be acquitted by being given the benefit of doubt he may be paid such portion of such pay and allowances as the management may deem proper, and the period of his absence shall not be treated as period spent on duty unless the management so directs.

Paragraph 19.4 reads thus—If after steps have been taken to prosecute the employee or to get him prosecuted for an offence, he is not put on trial within a year of the commission of the offence, the management may then deal with him as if he had committed an act of “gross misconduct” or “of minor misconduct” as defined below, provided that if the authority which was to start prosecution proceedings refuses to do so or comes to the conclusion that there is no case for prosecution, it shall be open to the management to proceed against the employee under the provisions set out in paragraphs 11 and 12 infra relating to discharges, but he shall be deemed to have been on duty during the period of suspension, if any, and shall be entitled to full pay and allowances and all other privileges for such period. In the event of the management deciding, after enquiry, not to continue him in service, he shall be liable only for termination with three months pay and allowances in lieu of notice as provided in paragraph 3 above. If, within the pendency of the proceedings thus instituted, he is put on trial such proceedings shall be stayed pending the completion of the trial, after which the provisions mentioned in paragraph 3 above shall apply”

12. From the reading of the paragraph 19.2, 19.3 and 19.4 it is crystal clear as, contended by the first party that where the management chooses to file a complaint in respect of particular ‘charge it cannot simultaneously proceed with the DE and only where the concerned police fail to put him on trial within a period of one year, then the management can proceed to initiate the DE on the same charge and in case before concluding the disciplinary proceedings the employee is put on trial the disciplinary proceedings shall have to be stayed pending completion of the trial and only after disposal of the criminal case proceed with the enquiry and pass appropriate order either dismissal in the event of conviction or termination with 3 months pay and allowances in lieu of notice as provided in paragraph 3 above in the event of his acquittal. This being the position as per paragraph 19.4 of the Bipartite Settlement, let me now examine whether the DE initiated and concluded by the management with an ultimate order of dismissal dated 3-4-1993 is justified? It is borne out from the documentary evidence placed on record by the

parties that the Manager of the Malleshwaram branch of the second party filed complaint to Malleshwaram police on 26-04-1990 stating that an amount of Rs.60,000 being fraudulently withdrawn from the branch on 20-04-1990 wherein he has suspected the first party. Later on 15-11-1991 disciplinary proceedings were initiated by the second party/management against the first party on the same allegations by issuance of charge sheet. Subsequently the police after completing the investigation filed charge sheet against the first party on 15-1-1993 for offences punishable under Section 5(1)(e) read. with Section 5(2) of the Prevention of Corruption Act, 1947. The enquiry proceedings at Ex.M5 indicates the enquiry officer who commenced the enquiry on 2-6-1992 proceeded *ex parte* since the notice sent to the first party returned with endorsement as ‘not claimed’ and ultimately concluded it on 15-8-1992 and submitted his finding to the disciplinary authority on 30-09-1992. Thereafter the disciplinary authority issuing second show cause notice to the first party dated 21-11-1992 and 24-12-1992 since did not receive any response, by his order dated 3-4-1993 imposed the impugned punishment of dismissal. The enquiry officer, though submitted his report on 30-09-1992 the same being given effect by the order of Disciplinary authority dated 3-04-1993 only, by no stretch of imagination it can be said that the Domestic Enquiry was completed before the first party was put on trial by the concerned police by submitting charge sheet to the competent criminal court on 15-1-1993. Therefore, in my opinion there is a clear violation of the provisions of paragraph 19.4 of the Bipartite Settlement by the management in concluding the DE without waiting for the judgement of the criminal court since the first party was put on trial before completion of the DE. Under the circumstances I arrived at the conclusion of answering this point in affirmative holding that there is a clear violation of the provisions of paragraph 19.4 of the Bipartite Settlement in concluding the disciplinary enquiry before the judgment of the criminal court.

13. Point No. 2 : In view of my finding on point No. 1 this point needs no consideration since the management ought not to have concluded the disciplinary enquiry before the judgment of the criminal court was delivered. Accordingly I answered this point.

14. Point No. 3 : In view of my finding on point No. 1 the punishment imposed against the first party by the second party on an *ex parte* enquiry being liable to be set aside for clear violation of the provisions of paragraph 19.4 of the Bipartite settlement, the deceased first party workman if alive would have been entitled for an order of reinstatement with back wages and all consequential benefits he would have received in the event of the continuing in service till he attains the superannuation. Since the first party workman is no more and reported to have expired on 8-12-2009 he would have continued in service uptill that date in the absence of impugned dismissal order, as such, the second party is liable to work out his back wages from the date of impugned dismissal order till 8-12-2009 and pay it to his legal representatives who have come on record along with whatever death benefits they

are entitle to if the first party workman had died while in service.

15. In the result I pass the following award :

AWARD

The reference is allowed holding the action of the management of Syndicate Bank as not justified in dismissing Shri K. Gangadhar from service w.e.f. 3-4-1993 and that his LRs who have come on record are entitle to receive from the second party the back wages that he would have received if continued in service till the date of his death occurred on 8-12-2009 as well as the death benefits that they would have received in the event of the first party workman dying during his service. The second party shall have to work out the back wages and the death benefits that would be payable to the LRs of the deceased workman and pay to them within 2 months from the date of publication of the award and in default to make payment within the stipulated period of 2 months the amount would be payable with interest at the rate of 8 percent per annum from said payable date till it is actually paid.

(Dictated to PA transcribed by her corrected and signed by me on 13th July 2011)

S. N. NAVALGUND, Presiding Officer

Annexure CR 237/1997 :

List of witnesses examined for the management.

1. Shri Sukumar R. Rao, Enquiry Officer MW1

Documents exhibited for the Second Party/ Management

- | | |
|--|---------|
| 1. Charge Sheet dated 15-11-1991 issued to the first party. | Ex. M1 |
| 2. Letter appointing Shri Sukumar Rao, Asst. Personnel Manager as enquiry officer. | Ex. M2 |
| 3. Notice of enquiry dated 9-5-1992 issued by the enquiry officer. | Ex. M3 |
| 4. Registered post cover returned with acknowledgment. | Ex. M4 |
| 5. Proceedings of enquiry dated 2-6-1992 | Ex. M5 |
| 6. Letter forwarding the copies of proceedings of enquiry dated 4-6-1992. | Ex. M6 |
| 7. Postal Shata | Ex. M7 |
| 8. Notice of enquiry dated 26-6-1992 | Ex. M8 |
| 9. Postal cover returned with the remarks 'not claimed'. | Ex. M9 |
| 10. Letter of the second party dated 8-7-1992 regarding notice board display on 6-7-1992. | Ex. M10 |
| 11. Proceedings of enquiry dated 23-7-1992. | Ex. M11 |
| 12. Letter of the enquiry officer dated 26-6-92 regarding convenient date to cross examine the management witnesses dated 27-7-1992. | Ex. M12 |
| 13. Letter of the Manager to DGM dated 8-9-1992. | Ex. M13 |
| 14. Letter to DGM dated 29-7-1992 regarding notice board display. | Ex. M14 |

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|--|---------|
| 15. Letter addressed to the first party by the enquiry officer regarding concluding the enquiry. | Ex. M15 |
| 16. Report of the enquiry officer dated 30-9-1992 | Ex. M16 |
| 17. Letter addressed to the first party by the Asst. General Manager dated 8-10-1992 enclosing the copy of the enquiry report. | Ex. M17 |
| 18. Letter addressed to the first party dated 11-1992 by the DGM regarding punishment. | Ex. M18 |
| 19. Letter addressed to the first party by the DGM dated 21-11-1992 regarding first party's request for postponement of the hearing fixed for 19-11-1992 | Ex. M19 |
| 20. Letter addressed to DGM to the first party dated 24-12-1992 regarding personal hearing scheduled for 19-11-1992 and 11-12-1992. | Ex. M20 |
| 21. Undelivered postal cover mentioned 'not claimed' | Ex. M21 |
| 22. Letter dated 3-12-1992 addressed to the DGM by the Manager regarding return of postal cover. | Ex. M22 |
| 23. Letter addressed to the DGM by the Manager dated 11-12-1992 regarding issue of xerox copy of the letter to the first party. | Ex. M23 |
| 24. Proceedings of the DGM in the matter of alleged misconduct on the part of the first party dated 3-4-1993 | Ex. M24 |
| 25. Appeal before the Appellate Authority dated 2-7-1994 | Ex. M25 |
| 26. Proceedings dated 9th August 1994 before the Appellate Authority. | Ex. M26 |
| 27. Proceedings before the General Manager dated 6th September 1994. | Ex. M27 |
| 28. Letter addressed to the first party dated 7th September 1994 by the Personnel Manager enclosing the copy of the proceedings in respect of the appeal dated 28-6-1994 | Ex. M28 |

List of witnesses examined for the first party

1. Shri K. Gangadhar WW1

List of Documents marked for the 1st party

- | | |
|---|---------------|
| 1. Postal covers received by the first party from the second party/management (14 covers). | Ex. W1 Series |
| 2. Evidence before the court of the VII Addl. Chief Metropolitan Magistrate, Bangalore. | Ex. W2 Series |
| 3. Memo regarding cash reward of Rs. 500 to the first party issued by the Commissioner of Police, Bangalore dated 16-9-1987 | Ex. W3 |

नई दिल्ली, 10 अगस्त, 2011

का.आ. 2413.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार युनियन बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.1, मुम्बई के पंचाट (संदर्भ संख्या सी जी आई टी-45/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-8-2011 को प्राप्त हुआ था।

[सं. एल-12012/60/2004-आईआर (बी II)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 10th August, 2011

S.O. 2413.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT-45/2006) of the Central Government Industrial Tribunal-cum-Labour Court No.1, Mumbai as shown in the Annexure in the industrial dispute between the management of Union Bank of India and their workmen, received by the Central Government on 10-8-2011.

[No. L-12012/60/2004-IR (B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE-I

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. 1, MUMBAI

Present

JUSTICE GHANSHYAM DASS,

Presiding Officer

REFERENCE No. CGIT-45 OF 2004

Parties : Employers in relation to the management of
Union Bank of India

And

Their workmen

Appearances :

For the Management : Mrs P. S. Shetty, Adv.

For the Workman : Shri R. P. Shaligram, Adv.

State : Maharashtra

Mumbai, dated the 1st day of November, 2006

AWARD-PART-I

This is a reference made by the Central Government in exercise of its powers under clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (the Act for short) vide Government of India, Ministry of Labour, New Delhi Order No.L-12012/60/2004-IR(B-II) dated 3-6-2004. The terms of reference given in the schedule are as follows:

“Whether the action of the management of Union Bank of India in dismissing from services of Shri. C. N. Babar, Cash Peon, Tilak Road Branch, Pune, without notice w.e.f. 28-10-2003 on the alleged charges of misconduct levelled against him vide charge sheet dated 20-5-2003 is legal and justified? If not, what relief the concerned workman is entitled to?”

2. In the instant reference Mr. C. N. Babar, was employed as Cash Peon with Union Bank of India at its Tilak Road Branch, Pune, Maharashtra. His services has been terminated by the Bank vide letter dt. 28-10-2003 after holding a departmental enquiry which was conducted by Mr. K.D. Sawant, Manager (P), Regional Officer, Mr. B. Madhukar, Asst. Manager, Zonal Office, Pune, was appointed as Management Representative for the employer. Mr. Babar was charge sheeted on 20-5-2003. The charge sheet reads as follows :

“The following acts of commission on the part of Shri C.N.Babar, Cash Peon (u/s), Tilak Road Branch, Pune have come to notice :

that on 15-2-2003 Shri Babar was assisting the Head Cashier Cat. “E” - Shri. V. S. Pote in the Cash Department. On the plea of putting the slip and rubber band on the cash packet, Shri Babar took the cash to the Receiving Cashier’s Cabin. In the afternoon Shri Babar left the Branch around 12.30 PM without permission from the Competent Authority by merely informing the Head Cashier - Shri Pote that Rs. 1.00 lac were kept inside the second drawer of the Receiving Cashier’s Cabin.

When the Head Cashier was tallying the cash he found it was short by Rs. 1.00 lac, which he could not tally despite best efforts. He also checked the Receiving Cashier’s Cabin where the 2nd drawer was locked, the keys of which were taken away by Shri Babar. The Head Cashier - Shri Pote went to Shri Babar’s residence to bring the keys but Shri Babar was not found at home. Shri Pote then returned to the Branch and with the help of Armed Guard broke open the drawer but no cash was found inside the drawer. Thus he misappropriated the Bank’s money for his personal gain.

Shri Babar thereafter remained absent from 16-2-2003 to 23-2-2003 before he was placed under suspension vide memorandum No.ZO:WZ 11 “DP” 2720 dt.24-2-2003 on 24-2-2003.

The aforesaid lapses on the part of Shri Babar constitute the following misconducts and he is hereby charged of the same:

GROSS MISCONDUCT :

“Doing acts prejudicial to the interests of the Bank”.

MINOR MISCONDUCT :

1. Absence without leave.
2. Neglect of work, negligence in performing duties.

Shri Babar is hereby called upon to submit the information in the matter within 10 days of receipt hereof by him, as to why appropriate disciplinary action should not be initiated against him for the aforesaid charges/allegations levelled against him. If Shri Babar fails to submit his explanation within the above stipulated time, it would be deemed that he does not wish to avail of the opportunity given to him and the matter will be proceeded with further on that basis.

3. The enquiry was scheduled to be held on 30-7-2003 and it was actually held as such in presence of Mr. Babar. The request of the workman for appointment of an Advocate as Defence Representative was turned down. The Management examined five witnesses on 30-7-2002 itself. The evidence of the Management was closed on that very day. The enquiry was adjourned to 1-8-2003 i.e. after two days only. The request of the workman for appointing another Defence Representative was not accepted. The request for adjournment of the enquiry to 4-8-2003 for defence evidence was rejected. The workman examined himself in defence on 1-8-2003. The enquiry was concluded on that very day. The initial findings of the departmental enquiry were submitted by Mr. K. D. Sawant, Enquiry Officer/Disciplinary Authority on 12-9-2003. The Enquiry Officer found the workman guilty for gross misconduct for doing act prejudicial to the interest of the Bank and for minor misconduct for absence without leave. The Enquiry Officer did not found the workman guilty for another charge of minor misconduct for neglect of work, negligence in performing duties. The copy of the report of the Enquiry Officer was given to the workman. The final findings of the departmental enquiry was recorded on 16-10-2003 by the Disciplinary Authority and final punishment was passed by none else but the same Mr. K. D. Sawant acting as Disciplinary Authority/Punishing Authority on 28-10-2003 whereby the workman was dismissed without notice from the services of the Bank with immediate effect.

3. The contention of the workman is that the enquiry is not just and fair and not in conformity with the principle of natural justice. He also contended that the findings recorded by the Enquiry Officer are perverse.

4. The contention of the Bank is that the enquiry has been in accordance with the legal provisions and in conformity with the principle of natural justice. The findings recorded by the Enquiry Officer are not perverse.

5. The workman filed his Own affidavit dt. 26-5-2006 in lieu of his examination in chief in support of his contentions. He was cross-examined by the learned counsel for the Bank. The Bank filed the affidavit of Shri K. D. Sawant. He has been cross-examined by the learned counsel for the workman.

6. The parties have filed the documents which have been duly exhibited being not denied by either of the parties.

7. I have heard the learned counsel for the parties and gone through the record.

8. I have also perused the written submissions made by the Bank. No written submissions have been made by the workman.

9. The following points arise for consideration:

(1) Whether the enquiry is just and fair and in conformity with the principle of natural justice?

(2) Whether the findings of the Enquiry Officer are perverse?

10. **POINT No. 1:** The enquiry on the face of it is not just and fair. The charge-sheet itself is not proper in the eye of law. It is surprising that the charge-sheet does not contain the list of documents/evidence which is proposed to be considered against the workman to prove the charges. further, the charge-sheet does not contain the list of witnesses to be examined during the course of enquiry. The workman was given ten days time from the date of receipt of the charge sheet to file the reply to the charge-sheet. Mr. K. D. Sawant was appointed as Enquiry Officer vide order dt. 25-6-2003 by the Disciplinary Authority/Senior Manager (Personnel). The Enquiry Officer held the enquiry on 30-7-2003. No list of witnesses was produced before the Enquiry Officer before the start of the enquiry as admitted by the Enquiry Officer himself during the cross-examination. The request of the workman for permitting him to appoint an Advocate as Defence Representative was turned down by the Enquiry Officer. In fact, as per bipartite settlement, an Advocate could be appointed as Defence Representative with the permission of the Bank. Hence, there was no justification for the Enquiry Officer to refuse the permission for appointing a Defence Representative. Even if this request was turned down, some time should have been given by the Enquiry Officer to arrange another person as Defence Representative. The request made in his behalf was also turned down by the Enquiry Officer. The entire evidence of five witnesses was recorded as a matter of surprise to the workman who had no knowledge at all from before as to who is going to be examined by the Management as witness. The workman, was asked to cross-examine the witnesses on the same day. The cross-examination was done as a formality since it was not expected from the workman to cross-examine properly the five witnesses in one day. Further, the enquiry was adjourned to 1-8-2003. The request was made by the workman to fix the enquiry on 4-8-2003 for the defence evidence but this request too was turned down for no justifiable reason. The request of the workman for a date of four days only cannot be said to be unreasonable or unjustifiable by any stretch of imagination. It is clear that proper opportunity to defend was not offered by the Enquiry Officer to the workman who was apparently in haste to conclude the enquiry in

two days for the sake of his own convenience. He was apparently not bothered as to whether the workman was able to defend properly or not. The enquiry report was submitted by Mr. K. D. Sawant after the expiry of about one and half month on 12-9-2003. Mr. Sawant in the mean time happened to be the Disciplinary Authority and he himself passed the final punishment order dt. 28-10-2003. The punishment order could not have been passed by the same person who was the Enquiry Officer of this case. This is nothing but a clear violation of law. The rulings cited by the learned counsel for the Bank i.e. *Mrs. Subha Mukherjee vs. U.C.O. Bank* (1996) 1 LLJ 83 (Del) and *Harinarayan Srivastav v. United Commercial Bank* (1997) 2 LLJ 620 (SC) are not helpful to the Bank on the facts and circumstances of the present case of enquiry mentioned above for refusing the permission to the workman to defend himself through an Advocate. Further, the rulings cited by the learned counsel for the Bank reported in *Tata Oil Mills Co. Ltd. Vs. Its workmen* (1964) 2 LLJ 113, (SC) and *JK Cotton Spg. Weaving Co. Ltd. vs. Its workmen* (1965) 2 LLJ 153 are not helpful at all to the Bank in justifying the rejection of request for adjournment of the enquiry for defence evidence on 4-8-2003. In fact, it is a case in which no adjournment was ever sought by the workman. The workman simply requested on the day of closing of the evidence of the Management on 30-7-2003 to fix a date for defence evidence after four days i.e. 4-8-2003. There was no justification at all to refuse this request just for the sake of convenience of the Enquiry Officer himself. In fact as a normal routine the enquiry should have been fixed on 4-8-2003 for defence evidence. The principle of law laid down by the Honourable Supreme Court in the case of *Sur Enamel and Stamping Works, Ltd and Their Workmen*, 2 LLJ 367 (SC) for observing the principle of natural justice during the course of departmental enquiry have not been observed in full by the Enquiry Officer since the workman has not been given fair opportunity to cross-examine the witnesses by having assistance of proper defence representative and further examining the defence evidence.

11. POINT No. 2 : The findings recorded by the Enquiry Officer are not found to be the findings based on sufficient legal evidence. In fact, it appears to be a case of no evidence. The charge is for mis-appropriation for Rs. 1.00 lakh by the workman. In fact, there is no mis-appropriation of a single penny in this case. The shortage of cash of Rs. 1.00 lac was found on 15-2-2003 when Mr. Babar was working as a Cash Peon. He was there just to assist the Officials. At that time Mr. Pote was Head Cashier. The mistake of shortage of cash was admitted by Mr. Pote on the same day and he himself deposited the shortage amount of Rs. 1.00 lac on the same day. Mr. Pote did not blame the workman in his admission letter dt. 15-2-2003 to the Branch Manager. Further, Mr. Pote submitted a report to the Regional Asstt. General Manager on 17-2-2003 and

in this report also there was no mention about the alleged guilt of Mr. Babar, workman. The confidential report dt. 15-2-2003 was submitted by Sr. Manager to the Asstt. General Manager, Zonal Office and in that report there was no mention about Mr. Babar for the alleged mis-appropriation. In fact, this report was submitted favouring Mr. Pote with a mention that Mr. Pote has put in more than 27 years of service with integrity beyond doubt and since there is no cash loss to the Bank, the matter may be viewed with leniency. It is reported that Mr. Pote has already been punished with leniency by the Bank.

12. In fact, the matter appears to have been reopened by the Bank on production of two letters purported to have been written by the workman in his own hand writing on 15-2-2003 itself which is the relevant date for the alleged mis-appropriation. These two letters were not in existence from 15-2-2003 to 17-2-2003. These letters were not produced with the Bank till 17-2-2003. Had it been so, there would have been definitely a mention of these letters in the various reports which were submitted with respect to the matter in question by the Head-Cashier Mr. Pote, Branch Manager and Senior Manager to Higher Authorities. The aforesaid letters dated 15-2-2003 were submitted to the Asstt. Gen. Manager by none else but by Mr. Pote himself who was the person to derive the benefit from the aforesaid letters. This fact is evident from the bare perusal of the report dt. 18-2-2003. In fact, all the findings of the Enquiry Officer are primarily based on the aforesaid two letters in question dt. 15-2-2003 which were accepted by the Enquiry Officer as a admission of the charges by the workman. The workman disputed the authenticity of the disputed letters from the very day for which the workman alleged that these letters were obtained by the Union leaders under threat and coercion after locking him in a room. No matter that the workman did not file a police complaint for it. The existence of the aforesaid letters on 15-2-2003 is itself in great doubt in view of the aforesaid discussions. These letters admittedly were produced before the Bank by none else but by Mr. Pote. Mr. Pote was a star witness during the course of enquiry but surprisingly he was not examined as a witness for the reason best known to the representative of the Bank for conducting the enquiry. As mentioned earlier, the Bank did not disclose in advance as to which of the witness are going to be produced in the enquiry.

13. It is pertinent to note that I do not find myself in agreement with the Enquiry Officer for a moment on the point that the workman did some act prejudicial to the interest of the Bank which is a charge for showing gross misconduct when there is no loss of cash at all and the Enquiry Officer himself did not find the workman guilty for neglect of work or negligence in performing duties. The rulings cited by the learned counsel for the Bank, i.e. *Benaras Electric Light and Power Co. Ltd. vs. Labour Court II* (9) 1972) 2 LLJ 328 SC is not helpful at all to justify the findings of the Enquiry Officer.

14. Hence, I conclude that the findings of the Enquiry Officer are perverse. Before parting, it may be mentioned that it is a case in which the final punishment has been passed by the same Officer acting as Disciplinary Authority who conducted the enquiry as Enquiry Officer in this case. It is not in accordance with the principle of natural justice and hence unsustainable.

15. As prayed the Bank is hereby given an opportunity to prove the charges by leading evidence before this Tribunal for which the case be fixed on 5-12-2006.

JUSTICE GHANSHYAM DASS, Presiding Officer

ANNEXURE-II

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, MUMBAI

JUSTICE G. S. SARRAF, Presiding Officer

REFERENCE NO. CGIT-1/45 OF 2004

Parties : Employers in relation to the management of
Union Bank of India

And

Their workmen(C. N. Babar)

Appearances :

For the Management : Mrs. P. S. Shetty, Adv.

For the workman : Shri. R. P. Shaligram, Adv.

State : Maharashtra

Mumbai, dated the 12th day of July, 2011

AWARD PART-II

1. This is a reference made by the Central Government in exercise of its powers under clause (d) of sub section (1) and sub- section (2A) of the Industrial Disputes Act 1947. The terms of reference given in the schedule are as follows:

"Whether the action of the management of Union Bank of India in dismissing from services of Shri C. N. Babar, Cash Peon, Tilak Road Branch, Pune without notice w.e.f. 28-10-2003 on the alleged charges of misconduct levelled against him vide charge sheet dated 20-5-2003 is legal and justified? If not, what relief the concerned workman is entitled to?"

2. The facts in brief are that the second party workman was working as a Cash Peon in Union Bank of India at its Tilak Road Branch, Pune, Maharashtra. He was charge sheeted on 20-5-2003. The charges read as under:

That on 15-2-2003 Shri Babar was assisting the Head Cashier cat. 'E' - Shri V. S. Pote in the Cash Department. On the plea of putting the slip and

rubber band on the cash packet, Shri Babar took the cash to the Receiving Cashier's cabin. In the afternoon Shri Babar left the Branch around 12.30 P.M. without permission from the Competent Authority by merely informing the Head Cashier - Shri Pote that Rs.1.00 lac were kept inside the second drawer of the Receiving Cashier's cabin. When the Head Cashier was tallying the cash he found it was short by Rs.1.00 lac, which he could not tally despite best efforts. He also checked the Receiving Cashier's cabin where the 2nd drawer was locked, the keys of which were taken away by Shri Babar. The Head Cashier - Shri Pote went to Shri Babar's residence to bring the keys but Shri Babar was not found at home. Shri Pote then returned to the Branch and with the help of Armed Guard broke open the drawer but no cash was found inside the drawer. Thus he misappropriated the Bank's money for his personal gain. Shri Babar thereafter remained absent from 16-2-2003 to 23-2-2003 before he was placed under suspension vide memorandum No.ZO:WZII:DP:2720 dated 24-2-2003 on 24-2-2003.

The enquiry commenced on 30-7-2003 and was concluded on 1-8-2003. The management produced five witnesses whereas the second party workman examined himself in defence. On conclusion of the enquiry the charge of gross misconduct of doing acts prejudicial to the interest of the bank was held proved and the charge of minor misconduct of absence without leave was also proved. The Enquiry Officer did not find the second party workman guilty of the charge of minor misconduct for neglect of work. Vide memorandum no.RO.NK:DP:342 dtd. 28-10-2003 the second party workman was dismissed from the service of the bank with immediate effect. The second party workman preferred an appeal before the Appellate Authority which was dismissed vide order no.CO:IRD:1750 dtd. 29-3-2004.

3. According to the statement of claim the findings of the Enquiry Officer are not based on facts and are perverse. On 16-2-2005 which was a Sunday Umesh Khole and Velhal forcefully took the second party workman to the Tilak Road Branch where Bhada, Bhaladar, Pote and Gudmetti were present. They threatened the second party workman and forced and pressurised him to write two letters which were taken by Pote and were handed over to the management on 17 or 18-2-2003. The second party workman never took away Rs.1.00 lac from the bank. The second party workman prayed for setting aside the order of dismissal and for reinstatement with continuity of service and back wages.

4. According to the written statement on 15-2-2003 the second party workman took Rs.1.00 lac in cash to the Receiving Cashier's cabin on the plea of putting the slip and rubber band on the cash packets. The second party

workman left the branch at about 12.30 P.M. without permission from the Competent Authority after informing the Head Cashier Pote that Rs.1.00 lac were kept inside the second drawer of the Receiving Cashier's cabin. When the Head Cashier was tallying cash he found that it was short by Rs.1.00 lac. The Head Cashier checked the Receiving Cashier's cabin. The second drawer was locked and the keys were taken away by the second party workman whereupon it was broken and opened but the cash was not there. The second party workman remained absent from 16-2-2003 to 23-2-2003. According to the written statement the second party workman vide letter dt. 15-2-2003 addressed to the bank admitted that he had taken Rs.1.00 lac in cash and had spent an amount of Rs.88,500 and gave a break up of the way the amount was spent. He also stated that the balance amount would be returned. Vide another letter dt. 15-2-2003 he stated that he had taken the amount of Rs.1.00 lac and he was responsible for the act and no one else was involved. According to the written statement the second party workman was rightly found guilty of the charges levelled against him and he was not entitled to any relief.

5. The second party workman filed rejoinder.

6. The second party workman filed his affidavit and he was cross-examined by learned counsel for the first party. The first party submitted affidavit of the Enquiry Officer-cum-Disciplinary Authority K.D. Samant who was cross-examined by learned counsel for the second party.

7. By Award Part-I dt. 1-11-2006 this Tribunal held that the principles of natural justice were not observed during the course of enquiry and that the findings of the Enquiry Officer were perverse and an opportunity was given to the first party to prove the charges by leading evidence before this Tribunal.

8. Thereafter the first party has filed affidavits of K. S. Venkatesh, V. S. Pote, V. N. Kulkarni and S. D. Velhal who have been cross-examined by learned counsel for the second party workman. The second party workman has submitted his own affidavit and he has been cross-examined by learned counsel for the first party.

9. Heard learned counsels for the first parties.

10. In letters Ex.M-1 and Ex.M-4 the second party workman has admitted that he took away Rs.1.00 lac from the bank. In cross-examination the second party workman admits that the two letters are in his own hand-writing and are signed by him but according to him he did not write the two letters voluntarily but the bank staff forced him to write these letters.

11. Letters Ex.M.1 and Ex.M-4 bear the date 15-2-2003 whereas Pote and Velhal say that the second party workman wrote these letters on 16-2-2003 which was Sunday. It is alleged that the second party workman gave

these two letters to Velhal but these two letters do not bear any endorsement of Velhal or anyone else. Pote has stated in his cross-examination that he admitted his mistake in the letter dt. 15-2-2003 and deposited Rs.1.00 lac on the same day. V.M. Kulkarni, who was Senior Manager at Tilak Road Branch at the relevant time, has stated in his cross-examination that Pote admitted his mistake regarding shortage of Rs.1.00 lac and then deposited Rs.1.00 lac in the bank. Learned counsel for the bank admits that Pote has been punished with stoppage of two increments. Thus a person has already been punished for the cash shortage and the bank has not suffered any loss.

12. It is not understandable that after the alleged admission of the second party workman of taking Rs.1.00 lac from the bank why the matter was not reported to the police.

13. An admission is not conclusive as to the truth of the matters stated therein. It is only a piece of evidence the weight to be attached to which must depend on the circumstances under which it is made.

14. I find it appropriate to quote the following lines from the Award Part-I. In fact, it appears to be a case of no evidence. The charge is for mis-appropriation for Rs.1.00 lakh by the workman. In fact, there is no mis-appropriation of a single penny in this case. The shortage of cash of Rs.1.00 lac was found on 15-2-2003 when Mr. Babar was working as a Cash Peon. He was there just to assist the officials. At that time Mr. Pote was Head Cashier. The mistake of shortage of cash was admitted by Mr. Pote on the same day and he himself deposited the shortage amount of Rs.1.00 lac on the same day. Mr. Pote did not blame the workman in his admission letter dt. 15-2-2003 to the Branch Manager. Further, Mr. Pote submitted a report to the Regional Asstt. General Manager on 17-2-2003 and in this report also there was no mention about the alleged guilt of Mr. Babar, Workman. The confidential report dt. 15-2-2003 was submitted by Sr. Manager to the Asstt. General Manager, Zonal Office and in that report there was no mention about Mr. Babar for the alleged mis-appropriation. In fact, this report was submitted favouring Mr. Pote with a mention that Mr. Pote has put in more than 27 years of service with integrity beyond doubt and since there is no cash loss to the Bank, the matter may be viewed with leniency. It is reported that Mr. Pote has already been punished with leniency by the Bank.

In fact, the matter appears to have been re-opened by the Bank on production of two letters purported to have been written by the workman in his own hand writing on 15-2-2003 itself which is the relevant date for the alleged mis-appropriation. These two letters were not in existence from 15-2-2003 to

17-2-2003. These letters were not produced with the Bank till 17-2-2003. Had it been so, there would have been definitely a mention of these letters in the various reports which were, submitted with respect to the matter in question by the Head-Cashier Mr. Pote, Branch Manager and Senior Manager to Higher Authorities. The aforesaid letters dated 15-2-2003 were submitted to the Asstt. General Manager by none else but by Mr. Pote himself who was the person to derive the benefit from the aforesaid letters. This fact is evident from the bare perusal of the report dt. 18-2-2003. In fact, all the findings of the Enquiry Officer are primarily based on the aforesaid two letters in question dt. 15-2-2003 which were accepted by the Enquiry Officer as a admission of the charges by the workman. The workman disputed the authenticity of the disputed letters from the very day for which the workman alleged that these letters were obtained by the Union leaders under threat and coercion after locking him in a room. No matter that the workman did not file a police complaint for it. The existence of the aforesaid letter on 15-2-2003 is itself in great doubt in view of the aforesaid discussions.

15. In view of the above discussion and what has been held by this Tribunal in Award Part-II have come to the conclusion that the admission of guilt allegedly made by the second party workman is not free from suspicion and solely on the basis of these admissions without any corroborative evidence the second party workman cannot be found guilty of the charges levelled against him.

16. It is, therefore, held that the action of the management of the Union Bank of India in dismissing C.N. Babar, Cash Peon, Tilak Road Branch, Pune from service is illegal and unjustified.

17. Consequently, the Union Bank of India is directed to reinstate C.N. Babar, Cash Peon within a period of two months from today with 50% back wages.

18. An Award is made accordingly.

JUSTICE G. S. SARRAF, Presiding Officer

नई दिल्ली, 10 अगस्त, 2011

क्र.आ. 2414.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 38/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-8-2011 को प्राप्त हुआ था।

[सं. एल-12012/98/2006-आईआर (बी-II)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 10th August, 2011

S.O. 2414.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 38/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow as shown in the Annexure in the industrial dispute between the employers in relation to the management of Punjab National Bank of India and their workmen, which was received by the Central Government on 10-8-2011.

[No. L-12012/98/2006-IR (B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

PRESENT

Dr. MANJUNIGAM, Presiding Officer

I. D. No. 38/2007

Ref. No. L-12012/98/2006-IR(B-II) dated: 30-8-2007

BETWEEN

Shri Laxmi Narayan S/o Shri Satayanarayan H.No. 66/28,
Chhitwapur Khas, Back of Police Chowki, Ram Bhawan
Lucknow.

AND

The Regional Manager Punjab National Bank Regional
Office, Lucknow, Branch Office Extension Counter,
IMPUP, Aliganj Lucknow.

AWARD

1. By order No. L-12012/98/2006-IR(B-II) dated: 30-8-2007 & its subsequent corrigendum dated 12-12-2007 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Shri Laxmi Narayan S/o Shri Satayanarayan, H.No. 66/28, Chhitwapur Khas, Back of Police Chowki, Ram Bhawan, Lucknow and the Regional Manager, Punjab National Bank, Regional Office, Lucknow, Branch Office, Extension Counter, IMPUP, Aliganj, Lucknow for adjudication.

2. The reference under adjudication is:

“Whether the action of the Management of Punjab National Bank in terminating the Services of Shri Laxmi Narayan S/o Shri Satya Narayan, Daily wage employee w.e.f. 22-6-2005 is legal and justified? If not, to what relief the concerned workman is entitled?”

3. The case of the workman, Laxmi Narayan, in brief, is that he was appointed as Part Time Sweeper w.e.f.

7-11-2002 and was paid consolidated wages @ Rs. 740/- per month w.e.f. 1-9-2003, which were transferred into his SB A/C directly. It has been alleged by the workman that his services has been illegally and arbitrarily terminated w.e.f. 22-6-2005 vide letter dated 22-6-2005; without giving him any notice and appointed one Shri Mukesh Kumar in his place. Accordingly, the workman has prayed that the impugned order dated 22-6-2005, terminating his services be set aside with all consequential benefits, including back wages and continuity in service.

4. The management of the Bank has disputed the claim of the workman by filing its written statement; wherein it has submitted that the workman, Laxmi Narayan did not fulfill the criteria relating to qualification and never participated in the process of recruitment for permanent appointment nor was ever issued any appointment letter; rather he has been engaged on casual/temporary basis for cleaning the Bank premises, as and when required, for which he was duly compensated. It has further been stated by the Bank that since the workman was never appointed by the Bank therefore, the provisions of Bipartite Settlement/award are applicable to him likewise there arise no question of terminating his services at any point of time; and accordingly, the management has prayed that the claim of the workman be rejected being devoid of any merit, without any relief to him.

5. After filing of written statement on 30-1-2009, the workman was afforded several opportunities to file rejoinder but he failed to avail them and accordingly, the case was ordered to proceed ex-parte against the workman vide order dated 25-8-2009 and next date 05-11-2009 was fixed for workman's evidence. The workman again refrained to file any evidence on 5-11-09 and 15-1-2010; and accordingly, the opportunity of workman's evidence was closed vide order dated 15-1-2010 and next date 25-3-2010 was fixed for opposite party's evidence. The management also did not turn up on 25-3-2010, 19-5-2009, 14-7-2010, 26-8-2010 and 5-10-2010 to file any evidence; and accordingly, next date 16-11-2010 was fixed for arguments. Neither of the parties forwarded any argument in support of their respective cases on several dates i.e. on 16-11-2010, 24-12-2010, 4-2-2011, 18-3-2011, 10-5-2011 and 23-6-2011, as such, the case was reserved for award, keeping in view the long pendency of the case from the year 2007.

6. Perused the entire evidence on record.

7. The workman has filed list of documents dated 5-10-2007 in support of his claim ; wherein he has filed photocopy of letter dated 22-6-2005 of Manager, Ext./S, IMDUP Lucknow regarding appointment of part time sweeper, photocopy of representation dated 24-6-2005 of the workman and photocopy of passbook in respect of the workman. The management has not filed any document in rebuttal.

8. The case of the workman is that he was appointed as Part Time Sweeper w.e.f. 7-11-2002 on consolidated wages @ Rs. 740 per month w.e.f. 1-9-2003 and his services has been illegally terminated w.e.f. 22-6-2005 without any notice; and some other person has been engaged in his place.

9. Per contra, the management of the Bank has disputed the claim of the workman and has submitted that the workman, never participated in the process of recruitment for permanent appointment nor was ever issued any appointment letter; moreover he has been engaged on casual/temporary basis, as and when required, therefore, neither the provisions of Bipartite Settlement/award are applicable to him nor there arise any question of terminating his services.

10. It is well settled that if a party challenges the legality of order, the burden lies upon him to prove illegality of the order and if no evidence is produced by the party, invoking jurisdiction of the court, must fail. In the present case burden was on the workman to set out the grounds to challenge the validity of the termination order and to prove the termination order was illegal. It was the case of the workman that his services had been terminated without giving him any notice or that his appointment was made following due procedure of the recruitment and the provisions of Bipartite Settlement/award were applicable on him. This claim has been denied by the management; therefore, it was for the workman to lead evidence to show that his services, in fact, was terminated without affording him any opportunity.

11. In the present case the workman has not turned to substantiate his case by way of filing any oral evidence. Merely pleadings are no substitute for proof. It was obligatory on the part of workman to come forward with the case that before termination of his services he was not given any notice and this act of the management was in violations of the Bipartite Settlement; but he failed to forward any evidence in support of his claim as he did not turn up after filing his statement of claim before this Tribunal. There is no reliable material for recording findings that the alleged injustice was done to the workman or the alleged unjust or illegal order of termination was passed by the management.

12. Accordingly, the reference is adjudicated against the workman Laxmi Narayan; and as such, I come to the conclusion that he is not entitled to any of the relief(s) claimed by him.

13. Award as above.

LUCKNOW
12-7-2011.

Dr. MANJU NIGAM, Presiding Officer

नई दिल्ली, 11 अगस्त, 2011

का.आ. 2415.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार धनकुनी कोलकोमप्लक्स के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कोलकाता के पंचाट (संदर्भ संख्या 17/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-8-2011 को प्राप्त हुआ था।

[सं. एल-22012/38/2009-आईआर (सीएम-II)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 11th August, 2011

S.O. 2415.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.17/2010) of the Central Government Industrial Tribunal-cum-Labour Court, Kolkata as shown in the Annexure in the industrial dispute between the management of Dankuni Coal Complex, of India and their workmen, received by the Central Government on 11-8-2011.

[No. L-22012/38/2009-IR (CM-II)]

D. S. S. SRINIVASARAO, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Reference No. 17 of 2010

PARTIES: Employers in relation to the management of Dankuni Coal Complex

AND

Their workmen.

PRESENT : Mr. Justice Manik Mohan Sarkar,
Presiding Officer

APPEARANCE:

On behalf of the Management : None.

On behalf of the Workmen : None.

State: West Bengal. Industry: Coal

Dated : 2nd August, 2011

AWARD

By Order No. L-22012/38/2009-IR (CM-II) dated 10-11-2009 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1) (d) and (2A) of the

Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

“Whether the demand of Rashtriya Coal Mazdoor Sangh for allegedly giving timely promotion benefit to S/Shri R. K. Sikdar and Shri S.N. Sen is legal and justified? To what reliefs are the workmen concerned entitled?”

2. When the case is called out today, none is found to be present on behalf of either of the parties. It is found from the record that though initially some application was made on behalf of the workmen union but thereafter several dates have passed, nobody responded on behalf of the workmen union nor any step has been taken on their behalf. So, it is presumed that the workmen union is not interested to proceed with the present reference and also it is presumed that at present industrial dispute does not survive.

In that case, the present reference is disposed of with a “No Dispute Award”.

JUSTICE MANIK. MOHAN SARKAR, Presiding Officer

Dated, Kolkata,

The 2nd August, 2011.

नई दिल्ली, 11 अगस्त, 2011

का.आ. 2416.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या सीजीआईटीए ऑफ 1366/2004/आईटीसी नं. 22/2001 ओल्ड) को प्रकाशित करती है जो केन्द्रीय सरकार को 11-8-2011 को प्राप्त हुआ था।

[सं. एल-12012/45/2001- आई आर (बी-II)]
रमेश सिंह, डेस्क अधिकारी

New Delhi, the 11th August, 2011

S.O. 2416.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGITA of 1366/2004 (ITC No. 22/2001 Old)) of the Central Government Industrial Tribunal/Labour Court, Ahmedabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of India and their workmen, which was received by the Central Government on 11-8-2011.

[No. L-12012/45/2001-IR (B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD

Present: SHRI BINAY KUMAR SINHA, Presiding Officer
 CGIT cum Labour Court,
 Ahmedabad,
 Dated 28th July 2011

Reference: CGITA of 1366 of 2004 New

Reference: ITC. 22/2001 (Old)

Regional Manager,
 Bank of India,
 Zonal Office, Bhadra,
 Lal Darwaja,
 Ahmedabad- 380001

...First Party

And
 Their workman
 Firoz Rustomji Bharda,
 Malesar, Panch Hatdi,
 Navsari-396 445

...Second Party

For the first party : Shri M.J. Sheth, Advocate

Kum. Meenaben Shah, Advocate

For the second party workman: Shri Jayvadan B. Jariwala,
 Advocate

Shri.M.S. Mansuri, Advocate

AWARD

A dispute arose between the employer in relation to Management of Bank of India and their workman Shri Firoz Rustomji Bharda and on failure of efforts of conciliation, the conciliation officer sent failure report, to the appropriate Government, the Government of India, Ministry of Labour & Employment/Shram Shakti Bhavan, New Delhi, by its order No. L- 12012/45/2001-IR (B-II) dated 14/18-06-2001 considering an industrial dispute existing between the parties referred the dispute for adjudication by this tribunal, in exercise of power conferred by clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Dispute Act, 1947, as per terms of reference under the schedule as follows.

SCHEDULE

“Whether the punishment of dismissal of the services of the workman Shri Firoz Rustomji Bharda by the management of Bank of India through its Officer vide Disciplinary Authority's order dated 07-04-1999 and vide Appellate Authority order dated 18-03-2000 w.e.f. 21-01-1998 is legal, proper and justified? If not, whether the demand of the workman Shri Firoz Rustomji Bharda for reinstatement in service of the Bank and the payment of full back wages with all consequential benefits from 21-01-1998 to 16-07-2000 (date of superannuating) is legal, proper and justified? If so, what relief the

concerned workman is entitled to and what other directions are necessary in the matter?”

(2) On issuance of the notices, the second party workman and also the management of first party Bank of India appeared and filed respective statement of claim and the written statement.

(3) The workman - filed his statement of claim at Ext. 5 taking the grounds that the action of the management of Bank of India regarding dismissal of his services w.e.f. 21-01-1998 is illegal improper and unjustified and praying for his reinstatement till the date of his superannuation with full backwages and consequential benefits.

(4) First party through its written statement pleaded inter-alia that the allegation made against the management of Bank of India by the second party workman are false and baseless and that on proof of the serious misconduct of the second party workman under the charges, punishment of the dismissal from the services was awarded. It has also been pleaded that the domestic inquiry was held in accordance with the law following the principle of natural justice, giving ample opportunity to the second party to defend himself. Further stand is that the second party workman was involved in serious misconduct of uttering abusive language and for unauthorized absence as not file medical certificate when asked by his officer and was suspended and memorandum of charges issued.

(5) The second party deposed through affidavit in support of his claim and was cross-examined at length by the management of first party and the case was running for further evidence by the second party and thereafter leading evidence by the first party.

(6) Subsequently the parties to this reference during pendency of this case, arrived at settlement in this case by filing amicable settlement paper at Ext. 25 signed by the second party workman Firoz Rustomji Bharda and his lawyer on one hand and Deputy Zonal Manager, Vadodara zone the first party and his lawyer Kum. Meenaben Shah on the other hand and both sides by filing this joint application regarding amicable settlement as per Ext. 25, prayed for disposal of this reference in terms and condition of the amicable settlement mentioned. The terms of condition of the amicable settlement arrived at between the parties are as follows-

(i) The Bank will convert punishment of Mr. Bharda from dismissal to Compulsory Retirement provided Mr. Bharda withdraws all the cases filed by him in High Court of Gujarat and Central Govt. Ahmedabad Surat Industrial Tribunal against the Bank.

(ii) The Bank will not pay to Mr. Bharda any pension during the intervening period i.e. from the date of dismissal to the date of this settlement with the Bank.

(iii) The Bank will pay pension at the rate of 100% of full pension from the date of agreement to Mr. Bharda,

provided Mr. Bharda withdraws all the cases by him at different Courts/Industrial Tribunals/Machineries under the Industrial Disputes Act, 1947.

In the second para it has been mentioned that Mr. Bharda in view of the above amicable settlement does not press any relief prayed for in the present reference. Further it has been incorporated that an award in terms of above may be passed.

(7) Considering long pendency of this case with checkered history that the second party also filed criminal complaint case against management officials and also approached to the Hon'ble High Court and also considering that the management of the first party Bank of India has considered the grievances of the second party workman to some extent in terms of amicable settlement at Ext. 25 and also considering that due to amicable settlement between the parties, this reference case would/be now disposed of and dismissed having no grievances to any of the parties to go in appeal /revision before the Hon'ble High Court, rather the dispute between the management of Bank and their workman is now going to be settled forever in terms of the amicable settlement at Ext. 25. So considering Ext. 25 which has been pressed jointly by both sides for passing award in terms and condition of the amicable settlement, this reference case was heard and now disposed of with the following orders:—

(i) The Bank will convert punishment of Mr. Bharda from dismissal to Compulsory Retirement provided Mr. Bharda withdraws all the cases filed by him in High Court of Gujarat and Central Govt. Ahmedabad /Surat Industrial Tribunal against the Bank.

(ii) The Bank will not pay to Mr. Bharda any pension during the intervening period i.e. from the date of dismissal to the date of this settlement i.e. dated 15-07-2011 with the Bank.

(iii) The Bank will pay pension at the rate of 100% of full pension from the date of agreement to Mr. Bharda, provided Mr. Bharda withdraws all the cases by him at different Courts/Industrial Tribunals/Machineries under the Industrial Disputes Act, 1947. In view of the above amicable settlement second party workman will have no right to press to any relief prayed for in the present reference. This award is passed in terms and conditions of amicable settlement as per Ext. 25 and is also made part of the award.

Let copies of the award be sent to the Appropriate Government for its publication

BINAY KUMAR SINHA, Presiding Officer

नई दिल्ली, 11 अगस्त, 2011

क्र.आ. 2417.—औद्योगिक विवाद अधिनियम, 1947 (1947 का : 4) की धारा 17 के अनुसरण में, केन्द्रीय सरकार देना बैंक के

प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ सं. सीजीआईटी/एनजीपी 20/2001) को प्रकाशित करती है जो केन्द्रीय सरकार को 11-8-2011 को प्राप्त हुआ था।

[सं. एल-12011/279/2000- आई आर (बी-II)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 11th August, 2011

S.O. 2417.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT/NGP/20/2001) of the Central Government Industrial Tribunal-Cum-Labour Court, Nagpur as shown in the Annexure in the Industrial dispute between the management of Dena Bank and their workmen, received by the Central Government on 11-8-2011.

[No. L-12011/279/2000-IR (B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE SHRI J. P. CHAND PRESIDING
OFFICER CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/20/2001

Date: 15-07-2011.

Party No. 1

The Regional Manager,
Dena Bank, Rukmani Bhawan,
Behind Jai Ram Talkies,
Raipur - 492001.

Versus

Party No. 2

The President,
Madhya Pradesh Dena Bank Staff Union,
Central Office, Rukmani Bhawan,,
Behind Jairam Complex,
Raipur.

AWARD

(Dated: 15th July, 2011)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of the Regional Manager, Dena Bank, Raipur and their workman, Shri Sohanlal Nishad for adjudication, as per letter No.L-12011/279/2000-IR (B-II) dated 22-03-2001, with the following schedule:—

"Whether the action of the management of Dena Bank in not giving the pay scale and post of regular sub-staff to Shri Sohanlal Nishad in the Gariaband Branch of the Bank is legal or valid? If not, then for what relief the concerned workman is entitled to and with what details?"

2. Being noticed, the workman, Shri Sohanlal Nishad ("the workman" in short) filed the statement of claim and the management of Dena Bank ("the Party No. 1" in short) filed their written statement.

The case of the workman is that he was recruited and engaged by the Party No. 1 at Gariaband branch as a full time cleaner-cum-sepoy on 01-10-1993 temporarily and worked continuously for more than six years till the end of September 2000 and during the period of service, he was not paid the prescribed wages and other benefits to which, he was entitled as per the Bipartite Settlement and the party no. 1 engaged him for the entire period on temporary basis with the intention to deprive him of the status and privileges of permanent employee, which is an unfair labour practice and during his continuous employment, party no. 1 did not pay him wages for sundays and Gazetted holidays with the intention to effect illegal breaks and he is entitled for the wages for the period of illegal breaks. The workman has prayed for payment of full wages and other benefits as per the Bipartite Settlement from the date of his initial engagement.

3. The Party no.1 in its written statement has pleaded inter-alia that the workman was initially appointed as a part time casual worker on daily wages basis without following the relevant Rules for recruitment of sub-ordinate cadre and as such, he is not entitled for the benefits as per Bipartite Settlement, which he has claimed and as he was not included in the approved panel of the Bank and did not fall under the category of permanent part time or full time worker and his relationship with the bank came to an end as soon as the job was over and therefore, he was not entitled to receive wages for sundays and gazetted holidays and the claim of the workman is totally illegal and contrary to law and the workman is not entitled to any relief.

4. In support of his claim, the workman has examined himself as a witness. It is necessary to mention here that party no. 1 had filed the affidavit of witness, Santosh Prakash in its behalf, in support of his claim, but as the said witness was not produced for cross-examination, his evidence was expunged.

The workman in his examination-in-chief, which is on affidavit, has reiterated the facts mentioned in the statement of claim and his rejoinder. However, in his cross-examination he has stated that he did not receive any appointment order and he was working as a Badli Sepoy and was getting wages on the days, on which he was working and he was not appointed through the recruitment board.

Except the oral evidence of the workman, there is no other evidence on record in support of his claim. Though the workman has referred to some documents in his examination-in-chief, such documents have not been filed. The workman has also not filed any document or authority to show that he is entitled to get wages and other facilities as per the Bipartite Settlement. On the other hand, he has

admitted that he was getting wages on the days on which he was working. Hence, it is found that the workman is not entitled to receive the wages and other benefits as claimed by him. Hence it is ordered:

ORDER

The action of the management of Dena Bank in not giving the pay scale and post of regular sub-staff to Shri Sohanlal Nishad in the Gariabank Branch of the Bank is legal and justified. The workman is not entitled for any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 11 अगस्त, 2011

का.आ. 2418.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार युनियन बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारियों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर/55/06) को प्रकाशित करती है जो केन्द्रीय सरकार को 11-8-2011 को प्राप्त हुआ था।

[सं. एल-12011/30/2006- आई आर (बी-II)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 11th August, 2011

S.O. 2418.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT/LC/R/55/06) of the Central Government Industrial Tribunal-Cum-Labour Court, Jabalpur as shown in the Annexure in the industrial dispute between the management of Union Bank of India and their workmen, received by the Central Government on 11-8-2011.

[No. L-12011/30/2006-IR (B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/55/06

Presiding Officer : Shri Mohd. Shakir Hasan

The General Secretary,
Dainik Vetan Bhogi Bank Karmchari Sangathan,
Hardev Niwas,
9, Sanwer Road,
Ujjain

...Workman

Versus

The Zonal Manager,
Union Bank of India,
Zonal office, 1st Floor,
Gangotri Complex,
Bhadbhada Road, T.T.Nagar,
Bhopal (MP)

...Management

AWARD

Passed on this 7th day of July, 2011

1. The Government of India, Ministry of Labour vide its Notification No.L-12011/30/2006-IR(B-II) dated 8-9-2006 has referred the following dispute for adjudication by this tribunal :—

" Whether the action of the management of Zonal Manager, Union Bank of India, Bhopal in terminating the service of Shri Vijay Kumar Malviya w.e.f. 5-1-2005 is justified? If not, to what relief the workman is entitled for?"

2. The case of the workman, in short, is that the father of the workman was appointed in the year 1986 on the permanent post of peon who died on 4-1-2000 while he was posted at Shajapur Branch of the management Bank. His mother Resham Bai gave an application for his appointment on compassionate ground vide circular No. 4341 dated 19-2-1997 but the management Bank instead of appointment on compassionate ground offered one time relief vide circular 1381/03 dated 18-8-03. The mother of the workman declined to accept the offer and again represented for appointment on compassionate ground. It is stated that the workman was engaged in the management Bank on daily wages from 4-2-2002 to 14-12-2004. Thereafter he was terminated without any notice and without any compensation in violation of the Industrial Dispute Act, 1947 (in short the Act, 1947). On these ground the reference be answered in favour of the workman.

3. The management appeared and contested the reference by filing Written Statement. The case of the management Bank inter-alia is that admittedly the father of the applicant was appointed on the post of peon since 31-12-86 and died on 4-1-2000 while in his service. The widow of the deceased peon filed an application for appointment of her son on compassionate ground. It is stated that the widow had not filed application for her appointment on compassionate ground and as such it was against the scheme of appointment on compassionate ground and therefore one time relief was offered in the light of the circular. Her request for appointment of her son on compassionate ground was rejected by the management Bank. The widow again represented for appointment of her son but again it was rejected. It is stated that the applicant Vijay Kumar Malviya was engaged on daily wages for cleaning and for storing drinking water intermittently. He had worked only for 94 days from the year 2002 to 2004 and therefore there is no violation of the Act, 1947. It is stated that subsequently the widow of the deceased peon had received the amount of Rs. 2,60,000 as one time relief. It is submitted that on the above grounds, the reference be dismissed.

4. During the course of proceeding the applicant/workman filed an application alongwith copy of the letter dated 13-12-2010 of the management Bank and submitted that the applicant has been appointed in the Bank and

therefore he does not want to pursue the case. The letter dated 13-12-2010 of the Bank shows that the employment is offered to the applicant/workman. The management has no objection if no dispute award is passed. Considering the above aspect that the applicant doesnot want to pursue the case in view of offer of appointment of the Bank. I find that now there is no dispute between the parties. Accordingly, the reference is answered.

5. In the result, no dispute award is passed without any order to costs.

6. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 11 अगस्त, 2011

का.आ. 2419.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ओरियन्टल इश्योरेंस कंपनी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय -1, धनबाद के पंचाट (संदर्भ संख्या 7/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-8-11 को प्राप्त हुआ था।

[सं. एल-17012/17/2000-आईआर (बी-II)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 11th August, 2011

S.O. 2419.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 7/2001) of the Central Government Industrial Tribunal-cum- Labour Court, No. 1, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Oriental Insurance Company and their workman, which was received by the Central Government on 11-8-2011.

[No. L-17012/17/2000-IR (B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 1, DHANBAD**

In the matter of a reference U/s. 10 (1) (d) (2A) of the I.D. Act.

Refrence No. 7 of 2001

Parties: Employers in relation to the management of Oriental Insurance Company

AND

Their workman

Present : Shri H.M. SINGH, Presiding Officer

APPEARANCES:

For the Employers : Shri D. K. Verma, Advocate
 For the Workman : Shri D. Mukherjee, Advocate
 State: Jharkhand : Industry : Insurance

Dated, the 18th July, 2011

AWARD

By Order No. L-17012/17/2000-IR (B-II) dated 10-1-2001 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal:

"Whether the action of the management of Oriental Insurance Company, Bistupur, Jamshedpur in denial of regularisation of Sri Ajit Kumar Paramanik as sub-staff is justified? If not, what relief the concerned workman, Sri Ajit Kumar Paramanik of entitled to?"

2. The case of the concerned workman is that he has been working as permanent sub-staff against permanent vacancy continuously, but the management has been treating him as an alleged daily rated workman. The management has been paying him wages below the prescribed rate of wages. The management was not maintaining the statutory records of regular engagement of the concerned workman and to camouflage the number of days of attendance had been paying him through vouchers in the names of different non-edistant persons. The concerned workman and the union on his behalf represented before the management several times for his regularisation and proper wages, but the anti-labour management instead of regularising him, terminated the service of the workman. Thereafter an industrial dispute was raised before the A.L.C. (C), Chaibasa, but the same ended in failure and the dispute has been referred to this Hon'ble Tribunal for adjudication. The action of the management of denial of regularisation of the concerned workman was illegal, arbitrary, unjustified and against the principle of natural justice

It has been prayed that the Hon'ble Tribunal be pleased to pass an award in favour of the concerned workman by directing the management to regularise him with retrospective effect with all arrears of wages and consequential benefits.

3. The case of the management is that the concerned workman was engaged as daily rated casual labour in the month of December, 1987 for the first time for 8 days only. He was again engaged in the year 1988 as daily rated casual worker for 12 days in the month of January, 10 days in February, 17 days in March, 16 days in April, 15 days in May, 7 days in June, 9 days in July, 9 days in August, 12 days in September, 2 days in October, 10 days in November and 10 days in the month of December, totalling to 147 days in that calendar year and there was no occasion for him to be engaged in subsequent years. The concerned workman was never engaged as sub-staff as because, the

management is required to follow the employment procedure as formulated taking into consideration the provisions of Arts. 14 & 16 of the Constitution of India and the rules of Employment. It has been submitted that the daily rated/casual workers do not have any right to be regularised as permanent employee of the company under any provision of the service rule. The concerned workman was a daily rated/casual labour and he also got opportunity to appear before the Board for his selection as sub-staff to be absorbed against future vacancies but as he failed to qualify himself he cannot be selected and recommended for his absorption as sub-staff on permanent basis.

In such circumstances, it has been prayed that the Hon'ble Tribunal be pleased to pass an award holding that the concerned workman is not entitled to any relief.

4. Both the parties have filed their respective rejoinders admitting and denying the contents of some of the paragraphs of each other's written statement.

5. The concerned workman has produced, himself as WW-1.

The management has produced MW-1, Kalyan Roy, who has proved documents as Exts.M-1 to Ext. M-1/37.

6. Main argument advanced on behalf of the concerned workman is that he has not been regularised though he is doing the work since 1987 in permanent nature of job.

7. The management argued that the, concerned workman has done work only 147 days in the year 1988 on casual nature of job and was engaged as casual worker on different days. He was not working permanently. He worked as and when he was engaged by the management for doing casual nature of job. He has not been selected through Employment Exchange. It has been stated that he has been paid as per voucher.

In this respect the concerned workman, WW-1, in his cross-examination stated that I have got no appointment letter. I have put my signature in different names. My name was not sponsored by the Employment Exchange. As and when required I used to be engaged on casual basis. I have worked only 8 days in December, 1988. It shows that no appointment letter was issued to him nor his name was sponsored by the Employment Exchange. He is putting his signature for getting payment from the management as coolie charges as per Exts.M-1 to M-1/37.

The workman has referred 1982 Supreme Court Cases (L & S), 124 in which Hon'ble Supreme Court laid down termination of service for unauthorised absence from duty amounts to retrenchment under Sec.25-F

In the present case there is no retrenchment, no termination because the concerned workman was employed on casual basis.

8. Considering the above facts and circumstances, I hold that the action of the management of Oriental Insurance Company, Bistupur, Jamshedpur in denial of regularisation of Sri Ajit Kumar Paramanik as sub-staff is

justified and the concerned workman is not entitled to get any relief.

This is my award.

H.M. SINGH, Presiding Officer

नई दिल्ली, 11 अगस्त, 2011

का.आ. 2420.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूको बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 57/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-8-2011 को प्राप्त हुआ था।

[सं. एल-12011/12/2006-आईआर (बी-II)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 11th August, 2011

S.O. 2420.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 57/2006) of the Central Government Industrial Tribunal-cum- Labour Court, No. 1, Dhanbad now as shown in the Annexure in the Industrial Dispute between the management of UCO Bank and their workman, received by the Central Government on 11-8-2011.

[No. L-12011/12/2006-IR (B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference U/s. 10 (1) (d) (2A) of the I.D. Act, 1947.

REFERENCE NO. 57 of 2006

Parties:

Employers in relation to the management of UCO Bank

AND

Their workman

PRESENT: Shri H.M. SINGH, Presiding Officer

APPEARANCES:

For the Employers : Shri Sunil Kumar Choudhary,
Law Officer.

For the Workman : Shri B. Prasad,
Union Representative

State : Bihar Industry : Bank

Dated, the 13th July, 2011

AWARD

By Order No. L-12011/12/2006-IR (B-II) dated 14-6-2006 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the action of the management of UCO Bank Bhagalpur in not regularising the services of Shri Sita Ram Rai is legal and or justified? If not, what relief the above workman is entitled ?"

2. In this case Shri B. Prasad, Union Representative, appearing on behalf of the workman by filing a withdrawal petition submitted that the concerned workman has already been regularised by the management. As such, neither the concerned workman nor the union is interested to contest the case further.

3. Under such circumstances, I render a 'NO DISPUTE' award in the present reference case.

H.M. SINGH, Presiding Officer

नई दिल्ली, 11 अगस्त, 2011

का.आ. 2421.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कॉर्पोरेशन बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, मुंबई के पंचाट (संदर्भ संख्या सीजीआईटी-1/27/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-8-2011 को प्राप्त हुआ था।

[सं. एल-12011/315/2003-आईआर (बी-II)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 11th August, 2011

S.O. 2421.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT-I/27/2004) of the Central Government Industrial Tribunal-cum- Labour Court, No. 1, Mumbai as shown in the Annexure in the Industrial Dispute between the management of Corporation Bank and their workman, received by the Central Government on 11-8-2011.

[No. L-12011/315/2003-IR (B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, MUMBAI

JUSTICE G. S. SARRAF, Presiding Officer

REFERENCE NO. CGIT-1/27 OF 2004

Parties:

Employers in relation to the management of Corporation Bank

And

Their Workmen

Appearances:

For the Management : Shri R.S. Pai, Adv.

For the workmen : None present.

State : Maharashtra,
Mumbai dated the 29th of July 2011

AWARD

1. In exercise of powers conferred under clause (d) of sub-section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act 1947 the Central Government has referred the following dispute for adjudication to this Tribunal.

Whether the action of the management of Corporation Bank, Mumbai in not reckoning the past services of S/Shri Dilip More, Santosh Kurhade, Prakash Karbale, Simhachal Panigrahi and Rajinder Palkar is justified? If not, what relief these five employees are entitled to?

2. According to the statement of claim filed by the five workmen they were given employment in the bank having regard to their eligibility. The procedure for permanent appointment of the sub-staff was not followed by the management. The management ought to have taken their initial date of appointment for the purpose of confirming them but they have been issued orders of probation/confirmation over-looking their past service thereby denying them the benefits which are available to a permanent employee. According to them this is unfair labour practice and the action of the management is violative of clause 20.8 of bipartite settlement and the minutes of the joint meeting held on 3-11-1997. They have, therefore, prayed that the date of their appointment be pre-poned to initial date of appointment in the permanent vacancy and the date of probation, confirmation be amended accordingly and they be extended all the benefits to which they are entitled to being permanent employees of the bank.

3. The first party has filed written statement stating therein that under clause 20.8 of the bipartite settlement a temporary employee may be appointed to fill a permanent vacancy as a stop gap arrangement and if he is eventually selected for filling up the vacancy, the period of such employment will be taken into account as part of probationary period. Also as per the understanding reached with the union on 3-11-1997 where a temporary employee is engaged against a permanent vacancy continuously and is eventually selected as a permanent employee the period of such temporary service would be considered as a part of the period of probation reckoned from the date of initial appointment against permanent vacancy. According to the written statement in none of the five cases of the workmen the ingredients under the said understanding has been fulfilled. The prayer of the five workmen is, therefore totally contrary to the bipartite settlement and hence unjustified. According to the written statement the bank has correctly fixed the initial date of appointment in respect of the said workmen on the basis of clause 20.8 of the bipartite settlement and the five workmen have accepted the said initial date of appointment. The bank has denied that any of the five workmen in this reference has worked as sub-staff continuously for 240 days. The bank has also denied that the five workmen are entitled for deemed confirmation from the dates as alleged in the statement of claim. The bank has reiterated that it has correctly applied clause 20.8 of the bipartite settlement and has confirmed them in accordance with law.

4. An affidavit of Bhalchandra Sadashiv Mulye has been filed on behalf of the workmen but his affidavit cannot be read in evidence as the workmen could not produce him for cross-examination by learned counsel for the first party.

5. The first party has filed affidavit of Ashok Narayan Hegde.

6. Heard learned counsel for the first party. None is present on behalf of the workmen in spite of service of notice on the union.

7. Ashok Narayan Hegde (a witness of the first party) has stated in his affidavit:

I say that the under clause 20.8 of the Bipartite Settlement between the Bank and the Union a temporary employee may be appointed to fill a permanent vacancy as a stop-gap arrangement. I say that the respective Branch Managers of the Bank engaged (a) Shri Dilip More (b) Santosh Kurhade, (c) Prakash Karbale (d) Simhachal Panigrahi and (e) Rajendra Palkar (hereinafter referred to as the workmen) as temporary Peons. I say that they were appointed as temporary Peons in different branches in Mumbai without any continuity of service as temporary Peons. Shri Dilip More was appointed at Malad Branch on 19-12-1994 and he worked the said Branch without continuity till 29-12-1995. Similarly I say that Santosh Khurade was appointed as temporary Peon at Santacruz Branch and worked as a temporary Peon from 23-8-2001. I say that Shri Rajendra Palkar worked as a temporary Peon at Colaba Branch on 1-3-1997 and Shri Simanchal Panigrahi was appointed as Probationary Peon on 4-8-1998 at Airoli, Mumbai. Shri Prakash Karbale was appointed as temporary Peon on 9-1-1992. None of the above temporary Peons worked continuously in any Branch during their temporary appointment.

I say that the Bank when permanent vacancies arose, the Bank appointed Shri Dilip More as a Probationary Peon at Airoli Branch vide order dated 12-6-1996. On completion of his probation on 1-1-1997 he was confirmed in service w.e.f. 2-1-1997.

I say that Shri Santosh Kurhade was appointed as a probationary Peon at Turbhe, Vashi branch on 4-8-1998 and was confirmed w.e.f. 14-2-1999. I say that Shri Rajendra Palkar was appointed as a probationary Peon at IBD Mumbai vide order dated 4-8-1998 and he was confirmed w.e.f. 18-2-1999 after the completion of probationary period. I say that Shri Simchal Panigrahi was appointed as a probationary Peon at Mumbai Airoli Branch on 4-8-1988 and was confirmed w.e.f. 4-3-1999 on completion of probation. I say that similarly Shri Prakash Karbale was appointed vide order on probation w.e.f. 28-10-1993 and was confirmed on 11-6-1994.

8. Considering the affidavit of Ashok Narayan Hegde I am of the opinion that the action of the management of Corporation Bank, Mumbai in not reckoning the past services of the five workmen is justified.

9. An Award is made accordingly.

JUSTICE G. S. SARRAF, Presiding Officer

नई दिल्ली, 11 अगस्त, 2011

का.आ. 2422.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ बड़ौदा के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या सीजीआईटीए ऑफ 93/2004/ (आईटीसी नं. 56/1998 ओल्ड) को प्रकाशित करती है जो केन्द्रीय सरकार को 11-8-2011 को प्राप्त हुआ था।

[सं. एल-12012/318/97- आई आर (बी-II)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 11th August, 2011

S.O. 2422.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the Award [Ref. No. CGITA of 93/2004 (ITC No. 56/1998 Old)] of the Central Government Industrial Tribunal/Labour Court, Ahmedabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of Baroda and their workmen, which was received by the Central Government on 11-8-2011.

[No. L-12012/318/97-IR (B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

PRESENT:

Binay Kumar Sinha,
Presiding Officer
CGIT-cum- Labour Court,
Ahmedabad, Dated 18th July, 2011

Reference: CGITA of 93 of 2004 New

Reference: ITC 56/1998 (Old)

1. Chief Manager,
Bank of Baroda,
Santram Road Branch,
Nadiad, Dist-Kheda

2. Assistant General Manger,
Bank of Baroda, Kheda,
Region, Nr. D.P. High School,
Nadiad- 387001.

...First Party

And their workmen through union

Govindbhai Poonambhai Vaghela,
C/o. Jitendra K. Ved,
Secretary General Workman's Union,
Sinduri Matta Devasthan,
S.T. Nagar Road,
P.O. Godhara,
Panchmahal- 389001.

...Second Party

For the first party : Shri Vikram Massar, Advocate

For the second party : Shri Jitendra K. Ved,
General Secretary, General Works
Union

AWARD

An Industrial dispute arose between employer in relation to Management of Bank of Baroda, Nadiad, Kheda and their workman Shri Govindbhai Poonambhai Vaghela and on failure of Conciliation, the Conciliation Officer sent failure report resulting in sending this Reference for adjudication. The appropriate Govt. Ministry of Labour Shram Shakti Bhavan, Rafi Marg, New Delhi vide order No. L-12012/318/97-IR (B-II) dated 21-4-1998 in exercise of powers conferred by clause (d) of sub- section (1) and sub- section 2 (A) of Section 10 of the ID Act, 1947, referred the dispute for adjudication as follows:—

SCHEDULE

"Whether the action of the management of Bank of Baroda in terminating the services of Shri Govindbhai Poonambhai Vaghela w.e.f. 5-05-1994 in the guise of voluntary cessation of service as per Bipartite Agreement is legal and justified? If not, to what relief the said workman is entitled?"

(2) In response to notices to the parties for filing their respective statement of claim and reply/rejoinder statement, second party appeared and filed his statement of claim whereas the first party also appeared and file written statement.

(3) The case of the second party workman as per statement of claim at Ext. 3 is that he joined service of the first party Bank as a Sub- Staff on 28-12-1982 as peon, he was assigned the duties at Lead Bank CELL functioning under the Assistant General Manager, Bank of Baroda, Nadiad. He was subsequently confirmed in the service with effect from 27-06-1983. Further case is that he was absent from duty from 26-04-1994 to 5-05-1994 due to his serious illness, he came to join but the first party refused him to resume duty though he continued his efforts, since 06-05-1994 for joining duty. Further case is that the first party (Assistant General Manager) asked him to produce the certificate of his illness from 26-04-1994 till date to which he stated that he cannot produce a bogus fitness certificate since he has already reported for duties on 6-05-1994. He from time to time sent intimation about his sickness and he also tried to resume duty but he was not allowed to resume duty illegally by the first party Management. Instead the first party removed him from service by oral order and without assigning any reasons which is quite arbitrary. There is no written termination order and no notice was given to him prior to removing him from the service nor any explanation was invited from him by the first party Bank and no opportunity was given to him for putting his' explanation and with utter disregard to follow natural

justice he was removed from service without showing any reason. He approached the higher authority and also made representation, but it was not considered by higher authorities of the first party. Further case is that against his said oral termination he made several representation from 1994 to 1996 and on 21-01-96 he sent registered notice to the first party Bank but all efforts went in vain, then dispute was raised before the conciliation officer and the management of Bank did not pay heed to the efforts of conciliation officer and on failure report, the reference was sent for adjudication. On such pleadings the workman has sought for relief for his reinstatement on his original post from 5-05-1994 with full back-wages and bonus, leave and all other allowance affiliated with the salary and for grant of any other relief to which the workman is found entitle.

(4) The first party (Bank) pleaded inter-alia as per its written statement at Ext. 11 that the workman used to remain absent from the duty without permission/intimation. There was no sick leave balance to his credit though the workman had sent medical certificate regarding his illness, but since there was no leave balance of any kind including sickleave balance to his credit he (workman) was advised that his request for leave cannot be considered vide order dated 2-05-1994 the workman had sent medical certificate of Gayatri Clinic which was dated 3-05-1995 which itself go to prove his wrong statement. The applicant did not come to resume the duty, the management Bank convey to the workman vide letter No. ND.STF 94/96 dated 9-06-1994 that his absence was treated as all loss of pay. Further case is that on 31-01-1995 the workman had given a letter to the Chief Manager, Nadiad Main Branch and no one had asked him to send any paper. In fact the workman had not visited/come to Nadiad Main Branch and no any resume entry had been given to him by the Manager. It has been denied that second party workman was not served with any notice it has also been denied that the workman had been refused opportunity of being heard or that no explanation was called from him. Rather letters and notice vide No. NDSTF-94/35 dated 9-06-1994, letter No. NDSTF 94/37 dated 2-07-1994, notice No. NDSTF 94/162 dated 20-09-1994 and letter No. CGZNRSTF/1628 dated 17-10-1994 were issue to him and the letter dated 9-06-2004, 29-07-1994 and 10-09-1994 were acknowledge by the workman and on letter dated 17-10-1994 it was written by the postal peon with remarks, addressee was not met. The said letter therefore, was sent by ordinary post on 24-10-1994 and under postal certificate on 28-10-1994, it has been denied that the second party workman had behaved in good faith. The stand taken by the first party is that the prolonged unauthorized absence of the workman by his own action he was treated as having voluntary retire from the Bank service. It is not true to say that he was terminated by the Management. Further case is that the second party workman had been very irregular in attending duty and for his frequent and abrupt absenteeism he had been verbally advised and cautioned on number of occasion during the period 89 till his absence with effect from

26-04-1994 treating as leave without pay as no leave balance, resulting in issuing letter dated 17-10-1994 regarding voluntary retirement from Bank service with effect from 10-10-1994. Further stand taken is that the Management of the first party in view of provision of clause 17 of bipartite settlement rightly taken decision about voluntary cessation of the employment and the workman Mr. Govind Poonambhai Vaghela was treated as having voluntary retire from the Bank service by his own action and that two after ample opportunity were given to him to report for duty. Further case is that the workman with his father in the month of December 1994 had come to the Office of Manager Personal and Chief Regional Manager and had orally apologized for the lapse on his part and requested for his reinstatement in the Bank service, but since more than 2 months had already passed after issuance of final letter dated 17-10-1994, it was not possible to consider the request of the workman and the Bank's inability in this regard was explained and notify to the workman and his father and thereafter the workman submitted an application vide letter dated 13-01-1995 and in the said letter the workman stated about illness in his family and also engaged in other function/programme also admitting mistake of remaining irregular and absence from duties praying for his reinstatement but in the statement of claim the workman has taken ground of his own illness which is quite contradictory to his earlier application dated 13-01-1995. Besides explaining the factual metrix in the written statement, the first party has also taken such objection that the Reference is not tenable in the eye of law and this Tribunal has no jurisdiction to adjudicate upon the dispute referred under terms of Reference and that no Industrial Dispute exists between Bank and second party workman and so the Reference deserves to be rejected.

(5) In view of the rival pleadings of the parties the following issues are taken up for consideration and determination.

ISSUES

- (I) Whether the Reference is Maintainable ?
- (II) Whether the workman has got valid cause of action in this case?
- (III) Whether the notice dated 2/10-09-1994 asking to join duty within 30 days and letter dated 17-10-1994 containing the order of removal of the workman by way of voluntary cessation of service had been served upon the second party workman?
- (IV) Whether the second party workman had voluntary left the service of the Bank?
- (V) Whether the Management of Bank of Baroda (first party) was justified in terminating the service of the workman Shri Govind Poonambhai Vaghela under clause 17 of the bipartite agreement by way of voluntary cessation of service?
- (VI) Whether the second party workman is entitle for the relief of his reinstatement with backwages and consequential benefits with continuity in service?

(VII) Whether second party workman is entitle to get any other relief in this case?

(6) ISSUE NO. III

The second party workman adduced oral as well as documentary evidence. He examined himself in support of his case as per statement of claim that he fell sick on 26-04-1994 and so a leave application dated 2-05-1994 with medical certificate was sent to the management Bank first party for sanctioning leave from 26-04-1994 to 5-05-1994 and the Management Bank of first party write a letter dated 9-06-1994 vide pakka Ext. 32 acknowledging about the leave application along with the certificate of Dr. B.K. Patel, M/s. Gaytri Clinic, Nadiad and informing to the workman that no leave balance is available in his leave account and so, his absence from 26-04-1994 is treated as leave without pay. Ext. 13/1 is the representation of the workman addressing to Assistant General Manager Bank of Baroda, Nadiad which is dated 20-02-1996 requesting for reinstating him in the service with all consequential benefits. The workman in his evidence has denied about receipt of one month notice vide letter No. ND/STF/94/162 dated 2/10-09-1994 through which he was required to report for duty within 30 days otherwise he shall be treated as voluntary cessation of service from 10-10-1994 he also denied to have received the final letter EGZ/NR/STF/8/1628 dated 17-10-1994 through which his service is terminated with effect from 10-10-1994 by way of voluntary cessation of service. The first party management Bank is to prove that 30 days clear notice was served upon the workman asking him to join otherwise to face termination byway of voluntary cessation of service. Likewise the first party has also to prove that the final termination order dated 17-10-1994 was effectively and validly served upon the workman.

(7) The first party has examined a Senior Manager namely Kandarp Kumar trying to support the stand of the first party that the 30 days notice and the final order of the termination were served upon the workman. But this Management witness during cross-examination has admitted by stating—“it is true that cover of notice dated 17-10-1994 is received back and so same is not received by the workman”. Further stated that the final notice dated 17-10-1994 was given and the termination letter is given to the worker on 17-10-1994, vide Ext. 19/3, 19/4 sent to the worker which were returned back. Ext. 19/3 and 19/4 were given regular. Ext. No. 33 and 34 besides this, the Management have produced several other documents regarding the factum of absenteeism of the worker on early occasion and regarding granting leave which have been marked. Ext. 33 to 50 pakka. But those documents are of prior to the absenteeism of the workman since 26-04-1994 so, those are not very much relevant for answering such question that the workman voluntarily leave the service of the Bank. It would be pertinent to mention that. Ext. 32 is admitted documents that the workman Govindbhai Poonambhai Vaghela was suffering from illness since 26-04-1994 and so he was absent from duty and that on

2-05-1994 he had submitted sick leave application along with medical certificate of Dr. B.K. Patel requesting for sanctioning of leave from 26-04-1994 to 5-05-1994 but since there was no balance in his leave account so the workman absence from 26-04-1994 was treated by the Management of the 1st party as leave without pay. There is evidence of the workman that he on 6-05-1994 came to join the duty with fitness certificate but he was prevented from joining and was directed to come on next date with a medical certificate from 26-4-1994 to the present date i.e., when he comes to join on particular date. There is also evidence of the workman that repeatedly he approached to the Bank for joining duty but he was not allowed to join. The position comes to picture that as per Ext. 32 absence of the workman was treated by the Bank itself as on leave without pay having no balance of leave account to his credit. So, when the fitness certificate was produced as per evidence of the workman on 6-05-1994 there was no question by the first party Bank asking from the workman to come with the medical certificate.

(8) Considering oral and documentary evidence of both sides, it is obvious that the management Bank has treated the workman absence from duty from 26-04-1994 even on producing the medical certificate as leave without pay on his leave application. So it is immaterial whether he came to join on 6-05-1994 or on any subsequent date and the management of Bank has no alternative to allow him to join because the period from 26-04-1994, up to date of his joining had to be treated as leave without pay. And the management Bank has no legal right to prevent the workman from joining the duty because he was a regular staff of the Bank. Further there is no service proof of the one month notice vide ND/STF/94/162 dated 2/10-09-1994 vide Ext. 53 upon the workman that he was given ultimatum to join the duty within the 30 days of the notice otherwise his absence will be treated as voluntary cessation of service from 10-10-1994. There is no any acknowledgement receipt of this letter by the workman. The final letter regarding termination by way of voluntary cessation of service through letter 1628 dated 17-10-1994 vide Ext. 54 was sent on the address of the workman to which he (the workman) has accept that this is his correct address. But the service report of the postal peon is that the concern addressee (workman) was not met, there is no such report regarding refusal to accept this letter by the workman Ext. 55 is acknowledgement due dated 18-10-1994 having no signature of workman in token of receipt of letter Ext. 54. So, in that view of the matter the final order/letter regarding tennination of the workman's service by way of voluntary cessation of service was not effectively and validly served upon the workman. Refusal of taking the registered letter can be said to be mode of service, but such endorsement of the postal peon that the addressee could not met, cannot be said to be effective mode of service of registered letter. More so, when the notice dated 2/10-9-1994 was sent upon the workman having no proof of its service, can also be examined from this angle that there was no clear 30 days

notice to the workman. As per case law reported in 2006 Supreme Court case (L & S) 1659 relied upon by the second party wherein Their Lordship of Apex Court have held the period of 30 days of notice ought to have been reckoned from the date of service of the notice and not from the date of its issue. So, in absence of service report of the 30 days notice and the final order regarding his termination, it can be said that the second party workman had no intimation in this regard. This issue is therefore decided against the first party workman and it is held that the notice dated 2/10-09-1994 asking the workman to join duty within 30 days otherwise to treated him as terminated from 10-10-1994 and the letter dated 17-10-1994 containing the order of removal of the workman byway of voluntary cessation of service had not been served upon the second party workman.

(9) ISSUE NO. IV

In view of the findings given to the issue No. III and also considering the second party workman's evidence that after recover from illness he present himself with fitness certificate on 6-05-1994 for joining duty, but was prevented by the management of first party on that date and on subsequent dates treating him as terminated from service orally whereas the second party workman had not voluntary leave the service of the Bank. In this regard the 2nd party workman has relied upon a case law of Scooters India Ltd. Vs. M. Mohammed Yakub and another reported in 2001 S.C. Cases (L&S) 148 holding that when attempted to join duty was prevented from doing so, the standing order could not be used to effect automatic termination of service. This issue is decided in favour of the second party workman.

(10) ISSUE NO. V

In view of the findings given in the forgoing paragraph I further find and hold that the first party management of Bank of Baroda was not justified in terminating service of the workman Shri Govindbhai Poonambhai Vaghela, as per bipartite settlement No.5 clause 17 byway of voluntary cessation of service. This issue is decided against the 1st party Bank.

(11) ISSUE NO. I II VI & VII

This Reference is maintainable and the second party workman is found having valid cause of action in this case and the second party workman Shri Govindbhai Poonambhai Vaghela, is entitle for his reinstatement from 6-05-1994. He is not found entitle for full back wages because of latches, also on his part and also considering that he had no any balance of leave account to his credit on his filing leave sanctioning application dated 2-05-1994 vide Ext. 32 so, half of back wages is deducted and he is found entitled for 50% of backwages and also with continuity in service.

Accordingly this Reference is allowed and the first party management of Bank of Baroda is directed to

reinstate the second party workman Shri Govindbhai Poonambhai Vaghela w.e.f. 6-05-1994 and to pay 50 % of his backwages and treating him in continuity in service.

BINAY KUMAR SINHA, Presiding Officer.

नई दिल्ली, 11 अगस्त, 2011

का.आ. 2423.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार देना बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय -1, धनबाद के पंचाट (संदर्भ संख्या 17/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-8-11 को प्राप्त हुआ था।

[सं. एल-12012/203/2001-आई आर (बी-II)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 11th August, 2011

S.O. 2423.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 17/2002) of the Central Government Industrial Tribunal-cum- Labour Court, No. 1, Dhanbad as shown in the Annexure in the industrial dispute between the management of Dena Bank and their workman, received by the Central Government on 11-8-2011.

[No. L-12012/203/2001-IR (B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference U/s. 10 (1) (d) (2A) of the I.D. Act.

REFERENCE NO. 17 of 2002

Parties:

Employers in relation to the management of Dena Bank, Bhagalpur.

AND

Their workman

PRESENT: Shri H.M. SINGH, Presiding Officer

APPEARANCES:

For the Employers : None

For the Workman : Shri B. Prasad, General Secretary,
Bank Employees Federation, Bihar.

State: Bihar

Industry : Bank

Dated, the 26th July, 2011

AWARD

By Order No. L-12012/203/2001-IR (B-II) dated 29-1-2002 the Central Government in the Ministry of Labour and, in exercise of the powers conferred by clause (d) of

sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal:

“Whether it is a fact that Shri Utpal Choudhary was engaged as a temporary/badlee worker by the management of Dena Bank (Bhagalpur Branch) during the period from 12-5-1987 to 21-6-2000? If so, whether the action of the management is legal and justified? If not, what relief he is entitled to?”

2. The case of the concerned workman, in brief, is that the Bank had asked for certain names from the local Employment Exchange, Bhagalpur for selecting some persons who would be empanelled for assignment of duties of temporary peon. The name of the concerned workman had been sponsored by the local Employment Exchange, Bhagalpur. The Bank conducted interview and selected some persons who were empanelled for performing the duties of a temporary/badlee peon. In the general list, the name of the concerned workman stood at Sl. No. 1. The concerned workman was issued temporary appointment letters during the period 12-5-1987 to 21-6-2000. In the meantime, the concerned workman demanded for his permanent status. He represented to the local as well as higher management for his permanent absorption/regularisation of his services as a peon but all those representations remained unheeded. The management informed the concerned workman in the evening of 21-6-2000 that his services stood terminated and he was no longer required to discharge the duties of peon at Bhagalpur Branch. Seeing no scope of redressal of his grievances the concerned workman raised an industrial dispute before the A.L.C. (Central), which culminated in reference before the Hon'ble Tribunal.

It has been prayed that the Hon'ble Tribunal be pleased to pass an award in favour of the workman by allowing relief as prayed for.

3. The case of the management in brief, is that the Bank frames recruitment rules for the post of subordinate, having regard to the reservation policy and requirement of Employment Exchange Act. Norms for educational qualification and age for requirement are prescribed under the rules. According to the requirement procedure, the bank has to call for the candidates from the District Employment Exchange, who fulfill the said norms and after interview, candidates from those panels are drawn to be engaged, whenever there is leave vacancy/vacancy of temporary nature in subordinate cadre. The concerned workman, Utpal Choudhary was on the approved panel of the bank for Bhagalpur Centre. His services were being utilised intermittently in leave vacancy or in exigencies purely on temporary basis as and when required on daily wage basis. He was paid proportionately for doing the same. He was engaged in the bank on temporary basis, as and when his services was required. But he never completed 240 days in a calendar year. His disengagement does not amount to

retrenchment within the definition of retrenchment under the I.D. Act. The concerned workman was neither employee of the bank nor he was retrenched from the services of the bank. The Hon'ble Supreme Court has also held in various cases that disengagement from service can not be construed as retrenchment under the Act. A peon workman is not entitled for employment in the bank in utter violation of the Recruitment Rules formulated by the Bank and the Bipartite Settlement in permanent post. He was not engaged as temporary badli worker by the bank (Bhagalpur Branch) during the period from 12-5-1987 to 21-6-2000 regularly and continuously. The bank never terminated his service.

In such circumstances, it has been prayed that the Hon'ble Tribunal be pleased to held that the action of the management is legal and justified and the concerned workman is not entitled for any relief.

4. Both the parties have filed their respective rejoinders admitting and denying the contents of some of the paragraphs of each other's written statement.

5. The concerned workman produced, himself as WW-1. (Utpal Choudhary) and proved documents as Exts.W.1.

The management has not produced any oral evidence..

6. The concerned workman has stated that he has worked as temporary/badlee peon from 12-4-1987 to 21-6-2000, but the management has not regularised as peon.

In this respect the papers which have been filed by the concerned workman show that he was engaged by the management for 15 days in the 1987 from 6-7-87 to 20-7-87 as per letter dated 3-7-1987. Another letter dated 28-3-88 which shows that he was engaged for 6 days from 28-3-88 to 2-4-88. Letter dated 2-4-88 which shows that his service had been extended upto 9-4-88 for 14 days. There is no document to show that he has completed 240 days attendance in a calendar year which may entitle him to be regularised.

7. Considering the above facts and circumstances, it shows that the concerned workman was not engaged by the management for a period from 12-5-1987 to 21-6-2000 for temporary work so, in terminating the service there is no requirement of issuing any notice before terminating his service because he has got no status of workman and there is no employer-employee relationship between the management and the concerned workman and no industrial dispute can be valid under Sec. 2A of the I.D. Act.

In such circumstances, I hold that the action of the management in terminating the service of the concerned workman Utpal Choudhary, is legal and justified and the concerned workman is not entitled to any relief.

This is my award.

H. M. SINGH, Presiding Officer

नई दिल्ली, 11 अगस्त, 2011

का.आ. 2424.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कोचीन पोर्ट ट्रस्ट के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, एरनाकुलम के पंचाट (संदर्भ संख्या 4/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-8-2011 को प्राप्त हुआ था।

[सं. एल-35011/03/2010-आई आर (बी-II)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 11th August, 2011

S.O. 2424.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 4/2011) of the Central Government Industrial Tribunal-cum-Labour Court, Ernakulam as shown in the Annexure in the industrial dispute between the management of Cochin Port Trust, and their workman, which was received by the Central Government on 11-8-2011.

[No. L-35011/03/2010-IR (B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

Present : Shri D. Sreevallabhan, B.Sc., LL.B., Presiding Officer (Monday the 25th day of July, 2011)

I. D. No. 4/2011

Unions :

(1)

The General Secretary,
Cochin Port Thozhilali Union,
Vankitaraman Road,
Willington Island,
Cochin - 682 009.

(2)

The General Secretary,
Cochin Thuramugha Thozhilali Union,
Willington Island,
Cochin.

(3)

The General Secretary,
Cochin Port & Dock Employees Union,
Near Port Fire Station,
Willington Island,
Cochin.

Management :

The Chairman,
Cochin Port Trust,
Willington Island,
Cochin.

By Advs. M/s. Menon & Pai.

This case coming up for final hearing on 25-07-2011 and this Tribunal-cum-Labour Court on the same day passed the following.

AWARD

This is a reference under Section 10(1)(d) of Industrial Disputes Act, 1947.

The reference is:

"Whether the action of the management of Cochin Port Trust in withdrawing a customary benefit hitherto enjoyed by the composite workmen without proper notice is justifiable? What relief the concerned workmen are entitled to?"

2. After the receipt of the reference summons was issued to all the three unions and the management. Summons was duly served to all the parties. After accepting summons unions 1 to 3 did not appear in spite of several adjournments. Management entered appearance but it also remained absent afterwards. From the conduct of the unions it has to be presumed that there is no existing dispute for adjudication. Hence it is not necessary to further continue with the proceedings. As the claimants did not appear and file any claim statement or adduce any evidence to satisfy that the action of the management is not justifiable an award can be passed by holding that it is justifiable.

In the result an award is passed to the effect that the action of the management of Cochin Port Trust in withdrawing the customary benefit hitherto enjoyed by the composite workmen without proper notice is justifiable.

The award will come into force one month after its publication in the Official Gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 25th day of July, 2011.

D. SREEVALLABHAN, Presiding Officer

Appendix - NIL

नई दिल्ली, 11 अगस्त, 2011

का.आ. 2425.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एल आई सी ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एनजीपी/42/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-8-2011 को प्राप्त हुआ था।

[सं. एल-17012/42/1998-आई आर (बी-II)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 11th August, 2011

S.O. 2425.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/

NGP/42/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of LIC of India and their workmen, which was received by the Central Government on 11-8-2011.

[No. L-17012/42/1998-IR (B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE

**BEFORE SHRI J. P. CHAND, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR**

Case No. CGIT/NGP/42/2000

Date: 21-07-2011.

Party No. 1

The Branch Manager,
LIC of India, Arvi Branch office (99)
Arvi, Tah-Arvi,
Wardha (MS) 442 001

Versus

Party No. 2

Shri Avinash S/o. Nanaji Rajpurohit,
R/o Pratap Nagar,
Ward no. 2, Sabane layout,
Wardha (M.S.) 442 001

AWARD

(Dated: 21th July, 2011)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government had referred the industrial dispute between the employers, in relation to the management of the LIC of India and their workman, Shri Avinash S/o. Nanaji Rajpurohit to Central Government Industrial Tribunal cum Labour Court Mumbai-II for adjudication, as per letter No.L-17012/42/98-IR(B-II) dated 26-05-1999, with the following schedule:-

"Whether the action of the management of LIC of India through the Divisional Manager, Nagpur & Branch Manager in terminating/retrenching the services of Shri Avinash S/o. Nanaji Rajpurohit w.e.f. 16-02-98 is legal and justified? If not, what relief the said workman is entitled to?"

Subsequently, the reference was transferred to this Tribunal for disposal in accordance with law.

2. On receipt of the reference, parties were noticed to file their respective statement of claim and written statement, in response to which, the workman, Shri Avinash S/o. Nanaji Rajpurohit ("the workman" in short) filed the statement of claim and the management of the LIC of India ("the Party No.1" in short) filed the written statement. The case of the workman as projected in the statement of claim is that he is a workman and he was in the employment of

the party no.1, in its Wardha Branch, in the capacity of a peon w.e.f. 22-05-94 on daily wages basis and initially he was paid Rs. 20 towards his wages per day, which was increased to Rs. 25 per day and he worked continuously from the date of his engagement with clean and excellent service record and no memo or charge sheet was ever issued against him during his entire service tenure and he had rendered 240 days of continuous service, without break with party no. 1, but the party no. 1 terminated his services orally w.e.f. 16-02-98, without following the mandatory provisions of law and he had raised the industrial dispute before the conciliation authority of Nagpur and on failure of the conciliation proceedings, failure report was submitted to the Government and the Central Government, in its turn, referred the industrial dispute to the Tribunal for adjudication and the oral termination of his service by party no. 1 without notice or payment of notice pay in lieu of notice and retrenchment compensation in violation of the mandatory provisions of Section 25-F of the Act is illegal, arbitrary and contrary to the provision of law and seniority list as required under Section 25-G was also not displayed by party no. 1, before termination of his service and as such, he is entitled for reinstatement in services with continuity and full back wages.

3. The party no.1 in its written statement has pleaded inter-alia that by virtue of clause (cc) of sub-section (2) of Section 48 of Life Insurance Corporation Act, 1956, (Amendment Act), the provision of the Act has no application to it and the provisions of (staff) Regulations shall have effect notwithstanding anything contained in among others, the industrial disputes Act 1947 and the Amendment Act came to be challenged before the Hon'ble Supreme Court in A.V. Nanchane Vs. Union of India (AIR 1982 Supreme Court 1126) and the Hon'ble Apex Court while upholding the validity of the same was also pleased to hold that in so far as matters provided for under rules (Under Clause (cc) of sub-section 2 of section 48) are concerned, the provisions of Industrial Disputes Act, 1947 shall have no application at all and as such, the enquiry in a reference under section 10 of the Act shall be confined as to whether there has been any violation of the provisions of the (Staff) Regulations by the corporation and nothing more and according regulation 4, the Chairman may, from time to time, issue such instructions or directions as may be necessary to give effect to, and carry out the provisions of these Regulations and in order to secure effective control over the staff employed in the corporation and regulation 8(1) provides that notwithstanding anything contained in these Regulations, a Managing Director, Executive Director(personnel), a Zonal Manager or a Divisional Manager may employ staff in classes III & IV on a temporary basis subject to such general or special direction as may be issued by the chairman from time to time and according to Regulation 8 (2) no person appointed under sub-regulation (1) shall only by reason of such appointment be entitled to absorption in the service of the

corporation or claim preference for recruitment to any post and in exercise of the power vested on him by regulation 4, the Chairman has issued instructions governing recruitment of staff to the service of the corporation, known as the Life Insurance Corporation of India recruitment (class III & Class IV staff) instructions, 1993 and in the decision in Life Insurance Corporation of India Vs. Asha Ambekar (AIR 1994 Supreme Court 2148), the Hon'ble Supreme Court have held that the instructions issued under Regulation 4 of (Staff) Regulations as statutory. It is further pleaded by the party no.1 that the workman was a casual labour employed on daily wages basis and by virtue of sub Regulation (2) of Regulation 8 of the regulations, he has no claim for any absorption or regularization in the service as regulation 8(2) shall have effect notwithstanding anything contained in the Act and as such, the reference is vague and the workman was not terminated illegally. It is also pleaded by party no.1 that the workman did not work as a peon from 22-05-94 to 16-02-98 and he was appointed as a badli caretaker for 81 days and his services were used occasionally for doing odd jobs like cleaning etc. and he was not performing the work of a peon as claimed and he worked for 6 days, 26 days, 27 days, 26 days, 25 days, 25 days, 25 days and 28 days in May, June, July, August, September, October, November and December of 1994 respectively and 28 days, 26 days, 31 days, 7 days, and 25 days in January, February, August, September and December of the year 1995 respectively, 10 days, 24 days, 25 days, 24 days 18 days, 20 days, and 25 days in January, February, March, April, May, October, November and December of the year 1996 respectively, 26 days, 25 days, 26 days, 24 days, 23 days, 25 days, 25 days, 20 days, and 13 days in January, March, April, May, June, July, September, November, of the year 1997 and January 1998 respectively and the workman had not rendered services of 240 days without break and it is also well settled that mere completion of 240 days of work doesn't under law impart the right to regularization and as such, the workman is not entitled for any relief.

4. Both the parties led oral evidence in support of their respective claims, besides placing reliance on the documentary evidence. The workman has examined himself as a witness and in his evidence, he has reiterated that facts mentioned in his statement of claim. Two witnesses, namely Bapurao Ramdas Gaikwad and Sudhakar D. Farsole were examined as witnesses by the party no.1. The evidence of the witnesses of party no. 1 is in the same line of the facts mentioned in the written statement.

5. At the time of argument, it was contented by the learned advocate for the workman that even though the workman had completed more than 240 days of continuous service, the party no. 1 did not regularize his services but on the contrary, his services were terminated without compliance of the mandatory provisions as provided under Sections of 25-F and 25-G of the Act and therefore,

the action of the party no. 1 is illegal and the workman is entitled for reinstatement in service.

6. Per contra, it was submitted by the learned advocate for the party no. 1 that in view of the provisions of clause (cc) of sub-section 2 of Section 48 of the LIC Act and Regulation 8 (2) of the Regulations, the provisions of the Act are not applicable to it and the workman is not entitled to claim reinstatement in service and moreover, the workman did not complete 240 days of continuous work in any calendar year and as such, the provisions of Sections 25-F and 25-G are not applicable. In support of such contentions, reliance was placed on the decisions reported in AIR 1982 SC 1126 (A.B. Nachane Vs. Union of India), AIR 1994 SC 1343 (M. Venugopal Vs. LIC), 2006 (5) Mh.L.J. 314 (BSNL Vs. Balasaheb Maroti Pujari) and a judgment of the Hon'ble High Court of Judicature of Bombay in WP no. 1655 of 2002 (LIC Vs. Ravindra Vyankat Ladhe)

In the decision reported in AIR 1982 SC 1126 (Supra), the Hon'ble Supreme Court has held that:

'Section 48 (2C) read with S. 48 (2) (cc) authorizes the Central Government to make rules to carry out the purposes of the Act notwithstanding the Industrial Disputes Act or any other law. This means that in respect of the matters covered by the rules the provisions of the Industrial Disputes Act or any other law will not be operative. Sub-section (2C) of S. 48 of the Life Insurance Corporation Act in so far as it authorizes the Central Government to make rules by-passing the existing laws, does not either expressly or by implication repeal any of the provision of pre-existing laws; neither does it abrogate them. By-passing a certain law does not necessarily amount to repeal or abrogation of that law'

In the decision reported in AIR 1994 SC 1343 the Hon'ble Apex Court has held that;

'(A) Life Insurance Corporation Act (31 of 1956), S.48 (2) (cc), sub-section 2(c) - Life Insurance Corporation of India (Staff) Regulations (1960), Regn. 14 - Probationer-Termination of services - Non-compliance of S.25-F of Industrial Disputes Act- Validity- Contract of employment entitling Corporation not to confirm probationer in case he fails to achieve target fixed in regard to his performance -Termination effected thereof without any notice - Cannot be assailed on ground of non-compliance of S. 25-F - Such termination being effected under stipulation contained in contract read with Regn. 14 is not 'retrenchment' within S. 2 (oo) of Industrial Disputes Act - Even otherwise regulations framed u/s. 48 (2) (cc) have overriding effect over provisions of Industrial Disputes Act'.

The Hon'ble High Court of Bombay in WP no. 1655 of 2002 has held that Regulation 8 of (Staff) Regulations and Section 48 (2) (cc) of the LIC Act have overriding effect over the provisions of the Act and as such, temporary employees appointed by LIC are not entitled to reinstatement.

In view of the principles enunciated by the Hon ble Apex Court in the decisions mentioned above and the Hon'ble Bombay High Court in WP no. 1655 of 2002, it is clear that the provisions of the Act are not applicable to the party no.1 and in view of Regulation 8 (2) of the (Staff) Regulations, the workman is not entitled for reinstatement.

7. Moreover, the workman has claimed that as he had completed more than 240 days of work continuously, the termination of his services without compliance of the provisions of Sections 25-F and 25-G is illegal. The party no.1 had denied the same and has stated that the workman did not complete 240 days of continuous work. In such a case, it is well settled that the initial burden is on the workman to prove that he completed 240 days of continuous work in the preceding 12 calendar months of the alleged date of termination. In this case, the workman had stated that his service was terminated on 16-2-98. So it is for the workman to show that he had worked for 240 days preceding the 12 months of 16-2-98. On perusal of the documentary evidence adduced by the parties, it is found that the workman had failed to prove that he worked for 240 days in the preceding 12 calendar months of 16-02-97. In view of the failure of the workman to discharge the burden upon him, it is held that the provisions of Sections 25-F and 25-G are not applicable in this case. Hence it is order:

ORDER

The action of the management of LIC of India through the Divisional Manager, Nagpur & Branch Manager in terminating/retrenching the services of Sh. Avinash S/o. Nanaji Rajpurohit w.e.f. 16-2-98 is legal and justified. The workman is not entitled to any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 11 अगस्त, 2011

का.आ. 2426.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ बड़ौदा के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-2, मुंबई के पंचाट (शिकायत नं. सीजीआईटी-2/2 ऑफ 2008 इन संदर्भ संख्या सीजीआईटी-2/66 ऑफ 2007) को प्रकाशित करती है जो केन्द्रीय सरकार को 11-8-2011 को प्राप्त हुआ था।

[सं. एल-12025/1/2010- आई आर (बी-II)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 11th August, 2011

S.O. 2426.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Complaint No. CGIT-2/2 of 2008 in reference No. CGIT-2/66 of 2007) of the Central Government Industrial Tribunal/Labour Court-2, Mumbai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of

Bank of Baroda and their workmen, which was received by the Central Government on 11-8-2011.

[No. L-12025/1/2010-IR (B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No.2 MUMBAI

Present: K. B. KATAKE, Presiding Officer

COMPLAINT NO. CGIT-2/2 of 2008

IN

Ref CGIT -2/66 of 2007

Ms. Meena Reddy

Room No.20,

Ajit Khan Chawl Marol Naka, M.V. Road

Makwana Road, Marol

Mumbai 400 059.

...Complainant

V/s.

1. The Deputy General Manager

Bank of Baroda

Mumbai Metro North Region Fort

Mumbai.

2. Mr. Dharamsey

Officer-in-Charge, Record Room

Bank of Baroda,

Marol Naka Andheri (E)

Mumbai 400 059.

...Opposite Parties

APPEARANCES:

FOR THE COMPLAINANT : Mr. Surendra Yadav,
Representative

FOR THE OPPOSITE PARTIES : Mr. Lancy D'Souza,
Representative.

Mumbai, dated the 29th June 2011.

AWARD

1. The complainant named above has filed this Complaint under Section 33 -A of the Industrial Disputes Act against the management of Bank of Baroda Mumbai. According to the complainant, the Opposite parties were engaged in unfair labour practice under item Nos (a), (b), (d) and (f) of Schedule -IV of the MRTP & PULP Act. According to the complainant, She was working as a sweeper in the Marol record room of Opposite parties from 1991 upto 31-10-1996. Thereafter she was removed from service in February 2005. According to the complainant, she had written many letters to the opposite parties. Copies of which are enclosed with the complaint. Complainant prays to direct opposite parties to reinstate her with backwages and also treat her as a permanent employee and also prays to direct opposite parties to pay arrears of bonus and salary from 1991.

2. The Opposite parties resisted the complaint vide their written statement at Ex-5. According to them the complaint is not maintainable as it is filed under the provisions of the MRTU and PULP Act which are not applicable to the Bank. According to them the complaint suffers from non-joinder of parties and hence not maintainable. According to the opposite parties, a complaint can be filed under Section 33 A where the employer contravened the provisions of Section 33 during the pendency of proceedings. According to them since the complaint does not disclose any cause of action as contemplated under Section 33 A of the ID Act, it needs to be rejected.

3. According to the opposite parties, complainant was engaged as casual sweeper intermittently from 8-11-1993 till 2-2-2005 on daily wage basis and lastly i.e. in February 2005 she was paid wages Rs.163 per day. According to them, the complainant was not engaged against any sanctioned vacancy. She was found involved in an incident of theft which was admitted by her in her letter dt. 18-10-2006. She was discontinued on account of loss of confidence.

4. Complainant has filed her affidavit in lieu of examination in chief at Ex-7. Thereafter matter was fixed for cross examination of witness. Today complainant filed application Ex-9 stating that she does not want to proceed with the complaint since reference is pending before this Tribunal. As complaint is withdrawn by the complainant, I proceed to pass the following order:

ORDER

The complaint stands dismissed for want of prosecution with no order as to cost.

Date: 29-06-2011

K. B. KATAKE, Presiding Officer

नई दिल्ली, 11 अगस्त, 2011

का.आ. 2427.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-1, चण्डीगढ़ के पंचाट (संदर्भ संख्या 56/2009) को प्रकाशित करती है जो केन्द्रीय सरकार को 11-8-2011 को प्राप्त हुआ था।

[सं. एल-12025/1/2010-आई आर (बी-II) भाग]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 11th August, 2011

S.O. 2427.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 56/2009) of the Central Government Industrial Tribunal/Labour Court-1, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the

management of Indian Bank and their workmen, which was received by the Central Government on 11-8-2011.

[No. L-12025/1/2010-IR (B-II) Pt.]

RAMESH SINGH, Desk Officer

ANNEXURE

**BEFORE SHRI GYANENDRA KUMAR SHARMA,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-1,
CHANDIGARH**

Complaint under Section 33-A of ID Act 1947 registered as ID No. 56/2009.

Sh. Harish Kapoor
R/o House No.4031/ 1,
Opposite Lajwanti School,
Durgapuri, Haibowal Kalan,
Ludhiana.

Applicant

Versus

The Assistant General Manager,
Indian Bank,
Circle Office, SCO No.190-192,
Sector 7-C,
Chandigarh.

Respondent

APPEARANCES

For the complainant : In person

For the Management : Sh. Narinder Singh

AWARD

Passed on : - 21-3-11

Sh. Harish Kapoor the complainant filed a complaint under Section 33-A for setting aside the punishment awarded to him during the pendency of ID No. 33 of 2007 Union Vs. Indian Bank. Complainant Sh. Harish Kapoor moved this petition on the grounds that he was the Vice-President of the Bank Employees' Federation of India (Punjab State) and in the same capacity has raised an industrial dispute which was registered as ID No. 33 of 2007 regarding the payment of allowances to the members of the Union including complainant mentioned in Para 5.282 and 5.326 of Desai Award. The management has awarded the punishment vide order dated 25-11-2000 and complainant has been compulsorily retired at the age of 56 years. By compulsory retirement the service conditions of the complainant were changed to his disadvantage hence, it is the violation of Section 33-A of the Industrial Disputes Act.

Respondent-Management appeared and opposed the application by filing objections. It was objected that complaint is not maintainable because ID No. 33 of 2007 was of different nature. Complainant Sh. Harish Kapoor was not the party in person, nor in any representative capacity in ID No. 33 of 2007. Apart from it, it is also mentioned in the objections that concerned provisions of Desai Award were modified and modified provisions have been implemented by the bank.

Both of the parties were afforded the opportunity for adducing evidence. No oral evidence was adduced by any of the parties. From perusal of order dated 11-3-2011, it is clear that none of the parties availed the opportunity for adducing oral evidence and requested this Tribunal to decide the dispute in question on the basis of the documentary evidence. Accordingly, parties were heard at length and file was reserved for Order/Award. Section 33-A of the Industrial Disputes Act contains the provisions for adjudication of grievances where the service conditions of any workman have been changed during any industrial dispute pending adjudication. Section 33-A reads as under :—

Where an employer contravenes the provisions of Section 33 during the pendency of proceedings before a conciliation officer, Board, an arbitrator, Labour Court, Tribunal or National Tribunal any employee aggrieved by such contravention, may make a complaint in writing, in the prescribed manner—

1. to such conciliation officer or Board, and the conciliation officer or Board shall take such complaint into account in mediating in, and promoting the settlement of such industrial disputes; and

2. to such arbitrator, Labour Court, Tribunal, or National Tribunal and on receipt of such complaint, the arbitrator, Labour Court, Tribunal or National Tribunal, as the case may be, shall adjudicate upon the complaint as if it were a dispute referred to or pending before it, in accordance with the provisions of this Act and shall submit his or its award to the appropriate Government and the provisions of this Act shall apply accordingly.

Conditions laid down in Section 33-A are preliminary and collateral upon which jurisdiction of the Industrial Tribunal depends. Meaning thereby, if any industrial dispute is pending before any Court or Tribunal, the management is barred to pronounce punishment to the workman whose industrial dispute is pending in any subsequent departmental proceedings except as per the procedure laid down in the Act. With the permission of the Tribunal or just after pronouncing the punishment leave of the Tribunal is mandatory. Admittedly, in this case no leave of the Tribunal was taken nor any application for permission of awarding the punishment of Sh. Harish Kapoor was taken.

Now the question arises whether the management was barred to award the punishment to Sh. Harish Kapoor on the ground that ID No. 33 of 2007 was pending adjudication at the time punishment was awarded. I have also summoned the file of ID No. 33 of 2007. The same was pending adjudication before this very Tribunal and this Industrial Dispute was answered and decided by me only. ID No. 33 of 2007 was referred by the Central Government regarding the implementation of Clause

No. 5.282 and 5.326 of Desai award relating to certain allowances. Both of the parties were afforded the adequate and sufficient opportunity to adduce evidence. After hearing the parties, this Tribunal passed the Award on 19-1-2009. One of the issue framed in this industrial dispute was whether Sh. Harish Kapoor was competent to raise the industrial dispute and to present himself in this reference on behalf of Federation? This issue was elaborately discussed and decided by this Tribunal vide said Award dated 19-1-2009. It was decided by this Tribunal that Sh. Harish Kapoor was not the party in person and not competent to raise the industrial dispute in person in ID No. 33 of 2007. It was further decided by this Tribunal that Sh. Harish Kapoor was not authorized as per the constitution of the Federation to raise this industrial dispute and to represent the entire Federation before this Tribunal in ID No. 33 of 2007. Sh. Harish Kapoor challenged this award before Hon'ble High Court of Punjab and Haryana and Hon'ble High Court of Punjab and Haryana was kind enough to permit Sh. Harish Kumar to withdraw the writ petition on the condition to file the review petition before this Tribunal. Accordingly, Sh. Harish Kapoor filed the review petition which was decided by this Tribunal vide Order dated 20-10-2010. Thus, Award dated 19-1-2009 is the final order adjudicating the grievances of parties in ID No. 33 of 2007. In this final adjudicated order this Tribunal has held that Sh. Harish Kapoor has not raised industrial dispute in individual capacity and was not authorized by the Federation to defend the claim on behalf of all the members of Federation. Another issue (issue No. 2) was also adjudicated and answered by this Tribunal elaborately. The findings on issue No. 2 need not to be mentioned because the same is not in question.

From the above discussion, it is clear that when the departmental proceedings were pending against Sh. Harish Kapoor he was not the party in individual capacity or any representative in ID No. 33 of 2007. Thus, the provisions of Section 33-A will not attract in this case. For the reasons mentioned above, as Sh. Harish Kapoor legally was not having any interest in ID No. 33 of 2007, therefore, management of Indian bank was not obliged to sought any permission for awarding punishment in departmental proceedings against Sh. Harish Kapoor while ID No. 33 of 2007, was pending adjudication before this Tribunal. For the reasons mentioned above the management of the bank was not also obliged to approach the court for approval of the punishment awarded to Sh. Harish Kapoor just after its pronouncement.

Thus, there is no force in the petition/complaint filed by the complainant Sh. Harish Kapoor and the same is likely to be dismissed. The petition is accordingly dismissed. File be consigned to record room. Parties be informed. Central Government be also informed.

G K. SHARMA. Presiding Officer

नई दिल्ली, 11 अगस्त, 2011

का.आ. 2428.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसराण में, केन्द्रीय सरकार नेशनल एवियेशन कम्पनी ऑफ इण्डिया (एयर ई.) के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, दिल्ली नं. 1, के पंचाट (संदर्भ संख्या 67/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-8-2010 को प्राप्त हुआ था।

[सं. एल-20013/01/2011-आईआर (सी-1)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 11th August, 2011

S.O. 2428.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 67/2010) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Delhi as shown in the Annexure in the industrial dispute between the employers in relation to the management of M/s. National Aviation Company of India (Air India), and their workman, which was received by the Central Government on 11-8-2010.

[No. L-20013/01/2011-IR (C-I)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

**BEFORE DR. R. K. YADAV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
NO. 1, KARKARDOOMA COURTS COMPLEX,
DELHI**

I.D. No. 67/2010
Shri Hari Singh,
E-32, Budh Nagar,
Inder Puri,
New Delhi-110012

....Workman

Versus

M/s. National Aviation Company of India (Air India),
Airlines House, Gurudwara Rakabganj Road,
New Delhi-110001.

.....Management

AWARD

Air India Ltd. (formerly known as National Aviation Company of India Ltd.) engaged Shri Hari Singh as a Driver on 09-07-1980. He was promoted to the post of Apron Supervisor in the year 2010. His services were terminated on 26-5-2010, without holding an enquiry or affording any opportunity to show cause against the proposed act. He raised an industrial dispute before the Conciliation Officer on 7-6-2010, through his union. Conciliation Officer entered conciliation proceedings and on expiry of period of 45 days,

Shri Hari Singh raised a dispute before this Tribunal, under the provisions of sub-section (2) of Section 2-A of the Industrial Disputes Act, 1947 (in short the Act), without being referred by the appropriate Government for adjudication.

2. The Tribunal has jurisdiction to adjudicate an industrial dispute on being referred to it under clause (d) of sub-section (1) of Section 10 of the Act. A legal fiction has been created by Section 2-A of the Act which enacts that when any employer discharges, dismisses, retrenches or otherwise terminates services of an individual workman, any dispute or difference between that workman and his employer connected with or arisen out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute, notwithstanding that no other workman nor any union of workman is a party to the dispute. The language used in Section 2-A of the Act clearly states that in order to make a dispute an industrial dispute it must be sponsored by substantial number of workmen, but where dispute relates to or arises out of discharge, dismissal retrenchment or termination of services of an individual workman, it will be treated as an industrial dispute. Therefore, the dispute raised by the claimant before this Tribunal is an industrial dispute, adjudication of which is to be resorted by this Tribunal.

3. The Parliament enacted Industrial Disputes (Amendment) Act, 2010, which came into operation on 15th of September, 2010. The Amended Act makes provision that a workman whose services have been discharged, dismissed, retrenched or otherwise terminated may make an application direct to this Tribunal for adjudication, after expiry of 45 days from the date he made the application to the Conciliation Officer for conciliation of the dispute and in respect of such an application the Tribunal shall have powers and jurisdiction to adjudicate upon the dispute as if it were a dispute referred to it by the appropriate Government, in accordance with the provisions of the Act. In view of above proposition of law, claim statement of Sh. Hari Singh was entertained.

4. Claim was demurred by the management, pleading that provisions of sub-section (2) of Section 2-A of the Act are not applicable to the present controversy, since it came in to existence on 15-9-2010, while services of Shri Hari Singh were terminated on 26-5-2010. Since no demand was made by him individually, hence no industrial dispute came in existence. It was claimed that the claimant performs supervisory functions, hence he is not a workman. Narrating facts relating to tragic and unfortunate air crash on 22-5-2010, it is asserted that Shri Y. V. Raju, General Secretary, All India Aircraft Engineer's Association, expressed his views before the press, in violation of instructions issued vide orders dated 2-7-09 and 24-5-2010. He was called upon to explain his conduct, vide letter dated 24-5-10, on receipt of which he instigated employees of the

management to walk out of their work place. Some of the employees joined agitation and abstained from duties. Claimant did not report for his duties on 25th and 26th May, 2010 and prevented willing employees from entering inside the terminal building at I.G. I. Airport. He indulged in gross violations and detrimental to the interest of the management. Hence his services were terminated, reasons for which action were fully known to her. It has been pleaded that the management would like to prove his misconduct before this Tribunal, if situation so necessitates. It was prayed that his claim may be dismissed.

5. On pleadings of the parties, following issues were settled :

1. Whether the claimant is not a workman within the meaning of clause (s) of Section 2 of the Industrial Disputes Act, 1947 ?
2. Whether the conciliation proceedings raised prior to enactment of Industrial Disputes (Amendment) Act, 2010 has no relevance for present dispute?
3. Whether the claimant was under an obligation to raise an individual demand on the management ?
4. Whether the provisions of Industrial Disputes (Amendment) Act, 2010 does not come for the rescue of the claimant ?
5. Whether the management was at liberty to dispense with the services of the claimant without providing any pre-decisional or post decisional hearing ?
6. Whether the services of the claimant were dispensed with by the management during pendency of conciliation proceedings before the Conciliation Officer ? If yes, its effect.
7. Whether the claimant is entitled for relief of reinstatement with continuity of service ?

6. An application, for casting preliminary issue as to maintainability of the claim statement, was moved by the management. The said application was disposed off vide order dated 20-12-2010.

7. Order dated 20-12-2010 was assailed before High Court of Delhi, by way of a writ petition, on which order dated 4-1-2011 was passed, staying further proceedings before this Tribunal.

8. During currency of the stay orders, granted by High Court of Delhi, the claimant and Shri Sunder Das Chhabra, Senior Manager of the management, appeared before this Tribunal. Claimant made a statement, announcing that he does not want to prosecute his claim statement and it may be dismissed as not pressed. Shri Chhabra clarified

that the management has no objection if his application is disposed off, during currency of the stay orders, as referred above.

9. Appearance of both parties and act of moving an application by the claimant make it apparent that on account of some understanding between the parties, the claimant wants to abandon his grievances against the management. He withdrew his attack on the action of the management, in terminating his services. Abstinence from asserting his right against the management, for whatsoever reasons, highlights that there remains no dispute between the parties on which this Tribunal is called upon to enter into adjudication. In view of these changed circumstances as award is, accordingly, passed. It be sent to the appropriate Government for publication.

Dr. R. K. YADAV, Presiding Officer

Dated : 24-6-2011

नई दिल्ली, 11 अगस्त, 2011

का.आ. 2429.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसराण में, केन्द्रीय सरकार नेशनल एवियेशन कम्पनी ऑफ इण्डिया (एयर ई.) के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय दिल्ली नं. 1, के पंचाट (संदर्भ संख्या 66/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-8-2010 को प्राप्त हुआ था।

[सं. एल-20013/01/2011-आईआर (सी-1)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 11th August, 2011

S.O. 2429.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 66/2010) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Delhi as shown in the Annexure in the industrial dispute between the employers in relation to the management of M/s. National Aviation Company of India (Air India), and their workman, which was received by the Central Government on 11-8-2010.

[No. L-20013/01/2011-IR (C-I)]

D.S.S. SRINIVASA RAO, Desk Officer

ANNEXURE

**BEFORE DR. R. K. YADAV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
NO. 1, KARKARDOOMA COURTS COMPLEX,
DELHI**

I.D. No. 66/2010

Ms. Kamal J. Kaur Badhan,
121, Metro View Apartments,
Pocket-B, Phase-II, Sector-13,
Dwarka, New Delhi

....Workman

Versus

M/s. National Aviation Company of India (Air India),
Airlines House, Gurudwara Rakabganj Road,
New Delhi- 110001

.....Management

AWARD

Ari India Ltd. (formerly known as National Aviation Company of India Ltd.) engaged Ms. Kamal J. Kaur Badhan as a Cabin Crew on July, 1986. She was promoted to the post of Chief Cabin Crew in year 2002. Her services were terminated on 26-5-2010, without holding an enquiry or affording any opportunity to show cause against the proposed act. She raised an industrial dispute before the Conciliation Officer on 7-6-2010, through her union. Conciliation Officer entered conciliation proceedings and on expiry of period of 45 days, Ms. Kamal J. Kaur Badhan raised a dispute before this Tribunal, under the provisions of sub-section (2) of Section 2A of the Industrial Disputes Act, 1947 (in short the Act), without being referred by the appropriate Government for adjudication.

2. The Tribunal has jurisdiction to adjudicate an industrial dispute on being referred to it under clause (d) of sub-section (1) of Section 10 of the Act. A legal fiction has been created by Section 2A of the Act which enacts that when any employer discharges, dismisses, retrenches or otherwise terminates services of an individual workman, any dispute or difference between that workman and his employer connected with or arisen out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute, notwithstanding that no other workman nor any union of workman is a party to the dispute. The language used in Section 2-A of the Act clearly states that in order to make a dispute an industrial dispute it must be sponsored by a substantial number of workmen, but where dispute relates to or arises out of discharge, dismissal retrenchment or termination of services of an individual workman, it will be treated as an industrial dispute. Therefore, the dispute raised by the claimant before this Tribunal is an industrial dispute, adjudication of which is to be resorted by this Tribunal.

3. The Parliament enacted Industrial Disputes (Amendment) Act, 2010, which came into operation on 15th of September, 2010. The Amended Act makes provision that a workman whose services have been discharged, dismissed, retrenched or otherwise terminated may make an application direct to this Tribunal for adjudication, after expiry of 45 days from the date she made the application to the Conciliation Officer for conciliation of the dispute and in respect of such an application the Tribunal shall have powers and jurisdiction to adjudicate upon the dispute as if it were a dispute referred to it by the appropriate Government, in accordance with the provisions of the Act. In view of above proposition of law, claim statement of Ms. Kamal J. Kaur Badhan was entertained.

4. Claim was demurred by the management, pleading that provisions of sub-section (2) of Section 2A of the Act are not applicable to the present controversy, since it came in to existence on 15-9-2010, while services of Ms. Kamal J. Kaur Badhan were terminated on 26-5-2010. Since no demand was made by her individually, hence no industrial dispute came in existence. It was claimed that the claimant performs supervisory functions, hence she is not a workman. Narrating facts relating to tragic and unfortunate air crash on 22-5-2010, it is asserted that Shri Y.V. Raju, General Secretary, All India Aircraft Engineer's Association, expressed his views before the press, in violation of instructions issued vide orders dated 2-7-09 and 24-5-2010. She was called upon to explain her conduct, vide letter dated 24-5-10, on receipt of which she instigated employees of the management to walk out of their work place. Some of the employees joined agitation and abstained from duties. Claimant did not report for her duties on 25th and 26th May, 2010 and prevented willing employees from entering inside the terminal building at I.G.I. Airport. She indulged in gross violations and detrimental to the interest of the management. Hence her services were terminated, reasons for which action were fully known to her. It has been pleaded that the management would like to prove her misconduct before this Tribunal, if situation so necessitates. It was prayed that his claim may be dismissed.

5. On pleadings of the parties, following issues were settled :

1. Whether the claimant is not a workman within the meaning of clause (s) of Section 2 of the Industrial Disputes Act, 1947 ?
2. Whether the conciliation proceedings raised prior to enactment of Industrial Disputes (Amendment) Act, 2010 has no relevance for present dispute?
3. Whether the claimant was under an obligation to raise an individual demand on the management ?
4. Whether the provisions of Industrial Disputes (Amendment) Act, 2010 does not come for the rescue of the claimant ?
5. Whether the management was at liberty to dispense with the services of the claimant without providing any pre-decisional or post decisional hearing ?
6. Whether the services of the claimant were dispensed with by the management during pendency of conciliation proceedings before the Conciliation Officer ? If yes, its effect.
7. Whether the claimant is entitled for relief of reinstatement with continuity of service ?

6. An application, for casting preliminary issue as to maintainability of the claim statement, was moved by the management. The said application was disposed off vide order dated 20-12-2010.

7. Order dated 20-12-2010 was assailed before High Court of Delhi, by way of a writ petition, on which order dated 4-1-2011 was passed, staying further proceedings before this Tribunal.

8. During currency of the stay orders, granted by High Court of Delhi, the claimant and Shri Sunder Das Chhabra, Senior Manager of the management, appeared before this Tribunal. Claimant made a statement, announcing that she does not want to prosecute her claim statement and it may be dismissed as not pressed. Shri Chhabra clarified that the management has no objection if her application is disposed off, during currency of the stay orders, as referred above.

9. Appearance of both parties and act of moving an application by the claimant make it apparent that on account of some understanding between the parties, the claimant wants to abandon his grievances against the management. She withdrew her attack of the action of the management, in terminating her services. Abstinence from asserting her right against the management, for whatsoever reasons, highlights that there remains no dispute between the parties on which this Tribunal is called upon to enter into adjudication. In view of these changed circumstances as award is, accordingly, passed. It be sent to the appropriate Government for publication.

Dated: 24-6-2011

Dr. R.K. YADAV, Presiding Officer

नई दिल्ली, 11 अगस्त, 2011

का.आ. 2430.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसराण में, केन्द्रीय सरकार टी.आई.एस. सी.ओ. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय धनबाद न. 1, के पंचाट (संदर्भ संख्या 73/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-8-2011 को प्राप्त हुआ था।

[सं. एल-20012/133/2003-आईआर (सी-1)]

डी.एस.एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 11th August, 2011

S.O. 2430.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 73/2004) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of M/s. TISCO, and their workman, which

was received by the Central Government on 11-8-2011.

[No. L-20012/133/2003-IR (C-I)]

D.S.S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference U/s. 10(1)(d) (2A) of I. D. Act,

Reference No. 73 of 2004

Parties : Employers in relations to the management of 6 and 7 Pits Colliery of M/s. TISCO.

AND

Their Workman.

Present : Shri H.M. Singh, Presiding Officer

APPEARANCES :

For the Employers : Shri D.K. Verma, Advocate.

For the Workman : Shri S.C. Gour, Advocate.

State : Jharkhand

Industry : Coal

Dated, the 2-8-2011

AWARD

By Order No. L-20012/133/2003-IR(C-I) dated 2-7-2004 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the I.D. Act, 1947, referred the following dispute for adjudication to this Tribunal.

"Whether the demand of Koyla Ispat Mazdoor Panchayat from the management of 6 and 7 Pits Colliery of M/s. TISCO for recording the date of birth of Sri Ganesh Dusadh as 14-3-1950 in place of 3-10-1946 is legal ? Whether the industrial dispute raised by the workman concerned for correction of date of birth after 25 years of service is legal and justified ? If so, what relief the workman concerned is entitled to ?"

2. The case of the concerned workman is that he was employed in permanent service w.e.f. 1-11-1976 and since he is continuing the service. During the course of employment an Identity Card was issued to him wherein along with his home address his date of birth has wrongly been mentioned on 3-10-1946 whereas it ought to have been mentioned as 14-3-1950. He represented before the management for correction of his date of birth as 14-3-1950 as per his Mining Sirdarship Certificate but the management did not take any action. Being aggrieved the concerned workman raised an industrial dispute through K.I.M.P. before the A.L.C.(C), Dhanbad. The conciliation proceeding ended in failure and the F.O.C. was sent to the

Ministry of Labour, Government of India and the Ministry vide letter dated 18-12-2003 declined to refer the dispute to an Industrial Tribunal for adjudication. Being aggrieved a W.P.L. No. 2572 of 2004 was filed before the Hon'ble Jharkhand High Court Ranchi. As per direction of the Hon'ble Jharkhand High Court the present reference has been made by the appropriate authority for adjudication to this Hon'ble Tribunal. It has been submitted that the concerned workman passed Mining Sirdar-ship Examination and a certificate was given by the Board of Mining Examination under Mines Act, 1952 and under Coal Mines Regulation, 1957. It has been submitted that the original statutory certificate was given to the management for the appointment of a mining sirdar. And the management appointed the concerned workman as mining Sirdar therein his date of birth is mentioned as 14-3-1950.

It has been prayed that the Hon'ble Tribunal be pleased to pass an award in favour of the concerned workman by directing the management to the date of birth of the concerned workman as 14-3-1950.

3. The case of the management is that the concerned workman was appointed w.e.f. 1-11-1976 as a Cat.I Mazdoor. At the time of entry in the services of the Steel Company, the concerned workman declared his date of birth as 3-10-1946 and as per his declaration the date of birth has been recorded as 3-10-1946 in all the statutory records, including Form 'B' Register maintained under Section 48 of the Mines Act. He put his signature in Form 'B' Register in token of acceptance of the entries made therein. The concerned workman was issued identity card which contains his date of birth as recorded in the service record i.e. 3-10-1946. Thus, he had full knowledge of his recorded date of birth in the service record. In the year 1977, the recognised union, namely, Rashtriya Colliery Mazdoor Sangh had taken up with the management to extend opportunities to the employees who had discrepancy in their recorded date of birth. As a result of joint discussion taken with the recognised union, it was decided to invite applications from such employees who had discrepant date of births and as such applications shall be placed before the age Correction Committee. But the concerned workman did not apply against the notification. On the union's request the management in the year 1980 agreed to give last opportunity only to those employees who could not apply against the notification in the year 1977 and accordingly applications were invited from all such employees. Again, the concerned workman did not apply. On the request of the union one more opportunity was given to those employees who were appointed prior to the notification issued in the year 1980 and 1977, but again the concerned workman did not apply against that notification. The concerned workman for the first time made a representation dated 6-2-2001 for correction of his date of birth and he was explained vide letter dated 17/18th August, 2001 by the management that his request for

correction of date of birth can not be acceded to. The date of birth recorded in Form 'B' Register cannot be altered after lapse of 25 years in any circumstances, as the entry made in Form 'B' Register has not statutory force.

4. Both the parties have filed their respective rejoinders admitting and denying the contents of some of the paragraphs of each other's written statement.

5. The concerned workman, Ganesh Dusadh, examined himself as WW-1.

The management produced MW-1 Dinesh Kumar Sharma, who has proved documents as Ext. M-1 to M-4/3.

6. Main argument advanced on behalf of the concerned workman is that his date of birth is 14-3-1950 but the management wrongly recorded his date of birth as 3-10-46. It has also been argued that he passed Mining Sirdarship Examination and a certificate was given by the Board of Mining Examination in which his date of birth has been mentioned as 14-3-1950.

The management has argued that the date of birth of the concerned workman in statutory record, Form 'B' Register has been mentioned as 3-10-1946. It has also been argued that he gave application after long delay for correction of his date of birth. It has also been argued that a circular was issued giving opportunity to the workman to submit applications who had discrepancy in their recorded date of birth in the year 1977, but the concerned workman had not given any application. The Hon'ble High Court and Hon'ble Supreme Court in several cases held that the correction of date of birth is not permissible after the long delay.

In this respect W.W.1, concerned workman, in his cross-examination at page 2 stated that no union in the name of Koyla Mazdoor Union is functioning in Tata Company. I do not know who has signed the second written statement on behalf of the union. I passed Mining Sirdar Certificate after coming into the employment.

He has proved documents Exts. M-1 to M-4/4.

The management's representative also argued that the Mining Sirdar's Certificate which has been issued on 10-7-1990 has got no evidence because he joined service in the year 1976 and he gave application in the year 2001 for correction of his age. After 1976 the Company issued Circular giving opportunity to the employees but nothing has been done by the concerned workman as Ext. M-4 which was issued on 12-4-1977 and also as per Ext. M-4/1 dated 5/6th July, 1977 and another circular of June 16, 1980, as per Ext. M-4/2 for correction of age but the concerned workman did not do anything and as per Ext. M-4/4 dated 12-5-1995 opportunity was given but the concerned workman did not give his application at that time. He moved his application on 6-2-2001 as per Ext. M-2 after superannuation. As per Company's record his date of birth is mentioned as 3-10-1946 in Form 'B' Register.

As regards his school leaving certificate which has been filed by the concerned workman has not been proved by issuing authority and it has got no relevancy and if the certificate had been produced by the concerned workman at the time of appointment than it must have been accepted by the management. It only shows that it must have been procured after superannuation. It shows that he has studied upto Class-IX, but no mark-sheet has been filed by the concerned workman which may prove that he was a student of Class-IX. This transfer certificate was issued on 24-7-63.

7. The concerned workman referred 2005 (3) JLJR 2009 in which the Hon'ble Jharkhand High Court laid down—

“Labour and Industrial Law—Date of birth—Implementation Instruction No. 76 of BCCL—in the case of appointees, who have passed matriculation or equivalent examination, the date of birth recorded in matriculation certificate shall be treated as correct date of birth and the same cannot be altered under any circumstances—question of sending the appellant to medical examination did not arise—respondents should have accepted petitioner's age in terms of his matriculation certificate—appellant's age to be corrected in terms of matriculation certificate.” In the present case the concerned workman has not filed his transfer certificate to the management which may be considered by the management regarding his correct date of birth.

8. The management has referred 2007(3) JLJR 470 in which Hon'ble Jharkhand High Court laid down—“Labour and Industrial Laws—Date of birth—Correction—reliance made on Sirdar's Certificate and School Transfer Certificate issued after about 6-9 years of the appointment these certificates having been issued much after appointment cannot be considered to be conclusive proof of date of birth—when the case has been fully considered by the Date of Birth Committee which found the date of birth as entered in Statutory Form 'B' Register as correct on the basis of service records, raising dispute about date of birth by the employee at the fag end of his service is not permissible.” The Hon'ble also relied upon (1994) 6 SCC 302 and (2001) 4 SCC 52.

9. Considering the above facts and circumstances, I hold that the demand of Koyla Ispat Mazdoor Panchayat from the management of 6 & 7 Pits Colliery of M/s. TISCO for recording the date of birth of Ganesh Dusadh as 14-3-1950 in place of 3-10-1946 is not legal and raising of dispute after 25 years of service is also not legal and justified. Hence, the concerned workman is not entitled to any relief.

This is my Award.

H. M. SINGH, Presiding Officer

नई दिल्ली, 11 अगस्त, 2011

का.आ. 2431.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नेशनल

एवियेशन कम्पनी ऑफ इण्डिया (एयर ई.) के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, दिल्ली नं. 1, के पंचाट (संदर्भ संख्या 64/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-8-2010 को प्राप्त हुआ था।

[सं. एल-20013/01/2011-आईआर (सी-1)]

डी.एस.एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 11th August, 2011

S.O. 2431.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 64/2010) of the Central Government Industrial Tribunal-cum-Labour Court-1, Delhi as shown in the Annexure in the industrial dispute between the employers in relation to the management of M/s. National Aviation Company of India (Air India), and their workman, which was received by the Central Government on 11-8-2010.

[No. L-20013/01/2011-IR (C-I)]

D.S.S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE DR. R.K. YADAV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
NO. 1, KARKARDOOMA COURTS COMPLEX,
DELHI

I.D. No. 64/2010

Ms. Anita Israni,
153-A, J&K Pocket,
Dilshad Garden,
New Delhi

....Workman

Versus

M/s. National Aviation Company of India (Air India),
Airlines House, Gurudwara Rakabganj Road,
New Delhi- 110001

.....Management

AWARD

Air India Ltd. (formerly known as National Aviation Company of India Ltd.) engaged Ms. Anita Israni as a Cabin Crew on 19-07-1982. She was promoted to the post of Chief Cabin Crew. Her services were terminated on 26-5-2010, without holding an enquiry or affording any opportunity to show cause against the proposed act. She raised an industrial dispute before the Conciliation Officer on 7-6-2010, through her union. Conciliation Officer entered conciliation proceedings and on expiry of period of 45 days. Ms. Anita Israni raised a dispute before this Tribunal, under the provisions of sub-section (2) of Section 2A of the Industrial Disputes Act, 1947 (in short the Act), without being referred by the appropriate Government for adjudication.

2. The Tribunal has jurisdiction to adjudicate an industrial dispute on being referred to it under clause (d) of

sub-section (1) of Section 10 of the Act. A legal fiction has been created by Section 2A of the Act which enacts that when any employer discharges, dismisses, retrenches or otherwise terminates services of an individual workman, any dispute or difference between that workman and his employer connected with or arisen out of such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute, notwithstanding that no other workman nor any union of workman is a party to the dispute. The language used in Section 2-A of the Act clearly states that in order to make dispute an industrial it must be sponsored by a substantial number of workmen, but where dispute relates to or arises out of discharge, dismissal, retrenchment or termination of services of an individual workman, it will be treated as an industrial dispute. Therefore, the dispute raised by the claimant before this Tribunal is an industrial dispute, adjudication of which is to be resorted by this Tribunal.

3. The Parliament enacted Industrial Dispute (Amendment) Act, 2010, which came into operation on 15th of September, 2010. The Amended Act makes provision that a workman whose services have been discharged, dismissed, retrenched or otherwise terminated may make an application direct to this Tribunal for adjudication, after expiry of 45 days from the date she made the application to the Conciliation Officer for conciliation of the dispute and in respect of such an application the Tribunal shall have powers and jurisdiction to adjudicate upon the dispute as if it were a dispute referred to it by the appropriate Government, in accordance with the provisions of the Act. In view of above proposition of law, claim statement of Ms. Anita Israni was entertained.

4. Claim was demurred by the management, pleading that provisions of sub-section (2) of Section 2A of the Act are not applicable to the present controversy, since it came in to existence on 15-9-2010, while services of Ms. Anita Israni were terminated on 26-5-2010. Since no demand was made by her individually, hence no industrial dispute came in existence. It was claimed that the claimant performs supervisory functions, hence she is not a workman. Narrating facts relating to tragic and unfortunate air crash on 22-5-2010, it is asserted that Shri Y.V.Raju, General Secretary, All India Aircraft Engineer's Association, expressed his views before the press, in violation of instructions issued vide orders dated 2-7-09 and 24-5-2010. She was called upon to explain her conduct, vide letter dated 24-5-10, on receipt of which she instigated employees of the management to walk out of their work place. Some of the employees joined agitation and abstained from duties. Claimant did not report for her duties on 25th and 26th May, 2010 and prevented willing employees from entering inside the terminal building at I.G. I. Airport. She indulged in gross violations and detrimental to the interest of the management. Hence her services were terminated, reasons for which action were fully known to her. It has been

pleaded that the management would like to prove her misconduct before this Tribunal, if situation so necessitates. It was prayed that her claim may be dismissed.

5. On pleadings of the parties, following issues were settled :—

1. Whether the claimant is not a workman within the meaning of clause (s) of Section 2 of the Industrial Disputes Act, 1947 ?
2. Whether the conciliation proceedings raised prior to enactment of Industrial Disputes (Amendment) Act, 2010 has no relevance for present dispute?
3. Whether the claimant was under an obligation to raise an individual demand on the management?
4. Whether the provisions of Industrial Disputes (Amendment) Act, 2010 does not come for the rescue of the claimant?
5. Whether the management was at liberty to dispense with the services of the claimant without providing any pre-decisional or post decisional hearing?
6. Whether the services of the claimant were dispensed with by the management during pendency of conciliation proceedings before the Conciliation Officer ? If yes, its effect.
7. Whether the claimant is entitled for relief of reinstatement with continuity of service?

6. An application, for casting preliminary issue as to maintainability of the claim statement, was moved by the management. The said application was disposed off vide order dated 20-12-2010.

7. Order dated 20-12-2010 was assailed before High Court of Delhi, by way of a writ petition, on which order dated 4-1-2011 was passed, staying further proceedings before this Tribunal.

8. During currency of the stay orders, granted by High Court of Delhi, the claimant and Shri Alok Chatterjee, Deputy Manager (P) of the management, appeared before this Tribunal. Claimant made a statement, announcing that she does not want to prosecute her claim statement and it may be dismissed as not pressed. Sri Chatterjee clarified that the management has no objection if her application is disposed off, during currency of the stay orders, as referred above.

9. Appearance of both parties and act of moving an application by the claimant make it apparent that on account of some understanding between the parties, the claimant

wants to abandon her grievances against the management. She withdrew her attack on the action of the management, in terminating her services. Abstinence from asserting her right against the management, for whatsoever reasons, highlights that there remains no dispute between the parties on which this Tribunal is called upon to enter into adjudication. In view of these changed circumstances an award is accordingly passed. It be sent to the appropriate Government for publication.

Dated: 27-6-2011

Dr. R. K. YADAV, Presiding Officer

नई दिल्ली, 11 अगस्त, 2011

का.आ. 2432.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसराण में, केन्द्रीय सरकार नेशनल एवियेशन कम्पनी ऑफ इण्डिया (एयर ई.) के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, दिल्ली नं. 1, के पंचाट (संदर्भ संख्या 56/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-8-2011 को प्राप्त हुआ था।

[सं. एल-20013/01/2011-आईआर (सी-1)]

डी.एस.एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 11th August, 2011

S.O. 2432.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 56/2010) of the Central Government Industrial Tribunal-cum-Labour Court-1, Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. National Aviation Company of India (Air India), and their workman, which was received by the Central Government on 11-8-2011.

[No. L-20013/01/2011-IR (C-1)]

D.S.S. SRINIVASARAO, Desk Officer

ANNEXURE

**BEFORE DR. R.K. YADAV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
NO.1, KARKARDOOMA COURTS COMPLEX, DELHI**

I.D.No.56/2010

Shri Surinder Kumar
S/o Shri Jag Phool Singh,
Plot No.41, Amberhai Ext., Dwarka Sector-19,
New Delhi-110075Workman

Versus

M/s National Aviation Company of India (Air India),
Airlines House, Gurudwara Rakabganj Road,
New Delhi - 110001Management

AWARD

Air India Ltd. (formerly known as National Aviation Company of India Ltd.) engaged Shri Surinder Kumar as a Helper (Commercial) on 02-06-1992. He was promoted to the post of Junior Operator, vide order dated 22-07-2008. His services were terminated on 26-5-2010, without holding an enquiry or affording any opportunity to show cause against the proposed act. He raised an industrial dispute before the Conciliation Officer on 7-6-2010, through his union. Conciliation Officer entered conciliation proceedings and on expiry of period of 45 days, Shri Surinder Kumar raised a dispute before this Tribunal, under the provisions of sub-section (2) of Section 2A of the Industrial Disputes Act, 1947 (in short the Act), without being referred by the appropriate Government for adjudication.

2. The Tribunal has jurisdiction to adjudicate an industrial dispute on being referred to it under clause (d) of sub-section (1) of Section 10 of the Act. A legal fiction has been created by Section 2A of the Act which enacts that when any employer discharges, dismisses, retrenches or otherwise terminates services of an individual workman, any dispute or difference between that workman and his employer connected with or arisen out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute, notwithstanding that no other workman nor any union of workman is a party to the dispute. The language used in Section 2-A of the Act clearly states that in order to make a dispute an industrial dispute it must be sponsored by a substantial number of workmen, but where dispute relates to or arises out of discharge, dismissal retrenchment or termination of services of an individual workman, it will be treated as an industrial dispute. Therefore, the dispute raised by the claimant before this Tribunal is an industrial dispute, adjudication of which is to be resorted by this Tribunal.

3. The Parliament enacted Industrial Disputes (Amendment) Act, 2010, which came into operation on 15th of September, 2010. The Amended Act makes provision that a workman whose services have been discharged, dismissed, retrenched or otherwise terminated may make an application direct to this Tribunal for adjudication, after expiry of the days from the date he made the application to the Conciliation Officer for conciliation of the dispute and in respect of such an application the Tribunal shall have powers an jurisdiction to adjudicate upon the dispute as if it were a dispute referred to it by the appropriate Government, in accordance with the provisions of the Act. In view of above proposition of law, claim statement of Sh.Surinder Kumar was entertained.

4. Claim was demurred by the management, pleading that provisions of sub-section (2) of Section 2A of the Act are not applicable to the present controversy, since it came in to existence on 15-9-2010, while services of Shri Surinder Kumar were terminated on 26-5-2010. Since no demand was

made by him individually, hence no industrial dispute came in existence. It was claimed that the claimant performs supervisory functions, hence he is not a workman. Narrating facts relating to tragic and unfortunate air crash on 22-5-2010, it is asserted that Shri Y.V. Raju, General Secretary, All India Aircraft Engineer's Association, expressed his views before the press, in violation of instructions issued vide orders dated 2-7-09 and 24-5-2010. He was called upon to explain his conduct, vide letter dated 24-5-10, on receipt of which he instigated employees of the management to walk out of their work place. Some of the employees joined agitation and abstained from duties. Claimant did not report for his duties on 25th and 26th May, 2010 and prevented willing employees from entering inside the terminal building at I.G. I. Airport. He indulged in gross violations and detrimental to the interest of the management. Hence his services were terminated, reasons for which action were fully known to him. It has been pleaded that the management would like to prove his misconduct before this Tribunal, if situation so necessitates. It was prayed that his claim may be dismissed.

5. On pleadings of the parties, following issues were settled :

1. Whether the conciliation proceedings raised prior to enactment of Industrial Disputes (Amendment) Act, 2010 has no relevance for present dispute?
2. Whether the claimant was under an obligation to raise an individual demand on the management?
3. Whether the provisions of Industrial Disputes (Amendment) Act, 2010 does not come for the rescue of the claimant?
4. Whether the management was at liberty to dispense with the services of the claimant without providing any pre-decisional or post decisional hearing?
5. Whether the services of the claimant were dispensed with by the management during pendency of conciliation proceedings before the Conciliation Officer? If yes, its effect.
6. Whether the claimant is entitled for relief of reinstatement with continuity of service?

6. An application, for casting preliminary issue as to maintainability of the claim statement, was moved by the management. The said application was disposed off vide order dated 20-12-2010.

7. Order dated 20-12-2010 was assailed before High Court of Delhi, by way of a writ petition, on which order dated 4-1-2011 was passed, staying further proceedings before this Tribunal.

8. During currency of the stay orders, granted by High Court of Delhi, the claimant and Shri Sunder Das Chhabra, Senior Manager of the management, appeared before this Tribunal. Claimant made a statement, announcing that he does not want to prosecute his claim statement and it may be dismissed as not pressed. Shri Chhabra clarified that the management has no objection if his application is disposed off, during currency of the stay orders, as referred above.

9. Appearance of both parties and act of moving an application by the claimant make it apparent that on account of some understanding between the parties, the claimant wants to abandon his grievances against the management. He withdrew his attack on the action of the management, in terminating his services. Abstinance from asserting his right against the management, for whatsoever reasons, highlights that there remains no dispute between the parties on which this Tribunal is called upon to enter into adjudication. In view of these changed circumstances an award is, accordingly, passed. It be sent to the appropriate Government for publication.

Dated : 24-6-2011

Dr. R.K. YADAV, Presiding Officer

नई दिल्ली, 11 अगस्त, 2011

का.आ. 2433.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नेशनल एवियेशन कम्पनी ऑफ इण्डिया (एयर ई.) के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, दिल्ली सं. 1, के पंचाट (संदर्भ संख्या 68/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-8-2010 को प्राप्त हुआ था।

[सं. एल-20013/01/2011-आईआर (सी-1)]

डी.एस.एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 11th August, 2011

S.O. 2433.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 68/2010) of the Central Government Industrial Tribunal-cum-Labour Court-1, Delhi as shown in the Annexure in the industrial dispute between the employers in relation to the management of M/s. National Aviation Company of India (Air India), and their workman, which was received by the Central Government on 11-8-2010.

[No. I-20013/01/2011-IR (C-I)]

D.S.S. SRINIVASA RAO, Desk Officer

ANNEXURE

**BEFORE DR. R.K. YADAV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
NO. 1, KARKARDOOMA COURTS COMPLEX,
DELHI**

I.D. No. 68/2010

Shri Shankar Lal S/o Late Shri Hardev Singh,
A-2/25, I.A. Colony,
Vasant Vihar,
New Delhi-110057

....Workman

Versus

M/s. National Aviation Company of India (Air India),
Airlines House, Gurudwara Rakabganj Road,
New Delhi-110001.

.....Management

AWARD

Air India Ltd. (formerly known as National Aviation Company of India Ltd.) engaged Shri Sankar Lal as a Helper (Commercial) on 6-06-1984. He was promoted to the post of Traffic Assistant and lastly as Senior Traffic Superintendent, vide order dated October, 2007. His services were terminated on 26-5-2010, without holding an enquiry or affording any opportunity to show cause against the proposed act. He raised an industrial dispute before the Conciliation Officer on 7-6-2010, through his union. Conciliation Officer entered conciliation proceedings and on expiry of period of 45 days, Shri Shankar Lal raised a dispute before this Tribunal, under the provisions of sub-section (2) of Section 2A of the Industrial Disputes Act 1947 (in short the Act), without being referred by the appropriate Government for adjudication.

2. The Tribunal has jurisdiction to adjudicate an industrial dispute on being referred to it under clause (d) of sub-section (1) of Section 10 of the Act. A legal fiction has been created by section 2A of the Act which enacts that when any employer discharges, dismisses, retrenches or otherwise terminates services of an individual workman, any dispute or difference between that workman and his employer connected with or arisen out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute, notwithstanding that no other workman nor any union of workman is a party to the dispute. The language used in Section 2-A of the Act clearly states that in order to make a dispute an industrial dispute it must be sponsored by a substantial number of workmen, but where dispute relates to or arises out of discharge, dismissal retrenchment or termination of services of an individual workman, it will be treated as an industrial dispute. Therefore, the dispute raised by the claimant before this Tribunal is an industrial dispute, adjudication of which is to be resorted by this Tribunal.

3. The Parliament enacted Industrial Disputes (Amendment) Act, 2010, which came into operation on 15th of September, 2010. The Amended Act makes provision that a workman whose services have been discharged, dismissal, retrenched or otherwise terminated may make an application direct to this Tribunal for adjudication, after expiry of 45 days from the date he made the application to the Conciliation Officer for conciliation of the dispute and in respect of such an application the Tribunal shall have powers and jurisdiction to adjudicate upon the dispute as if it were a dispute referred to it by the appropriate Government, in accordance with the provisions of the Act. In view of above proposition of law, claim statement of Sh. Shankar Lal was entertained.

4. Claim was demurred by the management, pleading that provisions of sub-section (2) of Section 2A of the Act are not applicable to the present controversy, since it came in to existence on 15-9-2010, while services of Shri Shankar Lal were terminated on 26-5-2010. Since no demand was made by him individually, hence no industrial dispute came in existence. It was claimed that the claimant performs supervisory functions, hence he is not a workman. Narrating facts relating to tragic and unfortunate air crash on 22-5-2010, it is asserted that Shri Y.V. Raju, General Secretary, All India Aircraft Engineer's Association, expressed his views before the press, in violation of instructions issued vide orders dated 2-7-09 and 24-5-2010. He was called upon to explain his conduct, vide letter dated 24-5-10, on receipt of which he instigated employees of the management to walk out of their work place. Some of the employees joined agitation and abstained from duties. Claimant did not report for his duties on 25th and 26th May, 2010 and prevented willing employees from entering inside the terminal building at I.G. I. Airport. He indulged in gross violations and detrimental to the interest of the management. Hence his services were terminated, reasons for which action were fully known to him. It has been pleaded that the management would like to prove his misconduct before this Tribunal, if situation so necessitates. It was prayed that his claim may be dismissed.

5. On pleadings of the parties, following issues were settled :

1. Whether the claimant is not a workman within the meaning of clause (s) of Section 2 of the Industrial Disputes Act, 1947 ?
2. Whether the conciliation proceedings raised prior to enactment of Industrial Disputes (Amendment) Act, 2010 has no relevance for present dispute?
3. Whether the claimant was under an obligation to raise an individual demand on the management ?

4. Whether the provisions of Industrial Disputes (Amendment) Act, 2010 does not come for the rescue of the claimant?
5. Whether the management was at liberty to dispense with the services of the claimant without providing any pre-decisional or post decisional hearing?
6. Whether the services of the claimant were dispensed with by the management during pendency of conciliation proceedings before the Conciliation Officer? If yes, it effect.
7. Whether the claimant is entitled for relief of reinstatement with continuity of service?
6. An application, for casting preliminary issue as to maintainability of the claim statement, was moved by the management. The said application was disposed off vide order dated 2-12-2010.

7. Order dated 20-12-2010 was assailed before High Court of Delhi, by way of a writ petition on which order dated 4-1-2011 was passed, staying further proceedings before this Tribunal.

8. During currency of the stay orders, granted by High Court of Delhi, the claimant and Shri Sunder Das Chhabra, Senior Manager of the management, appeared before this Tribunal. Claimant made a statement, announcing that he does not want to prosecute his claim statement and it may be dismissed as not pressed. Shri Chhabra clarified that the management has no objection if his application is disposed off, during currency of the stay orders, as referred above.

9. Appearance of both parties and act of moving an application by the claimant make it apparent that on account of some understanding between the parties, the claimant wants to abandon his grievances against the management. He withdrew his attack on the action of the management, in terminating his services. Abstinence from asserting his right against the management, for whatsoever reasons, highlights that there remains no dispute between the parties on which this Tribunal is called upon to enter into adjudication. In view of these changed circumstances an award is, accordingly, passed. It be sent to the appropriate Government for publication.

Dated : 24-6-2011

Dr. R. K. YADAV, Presiding Officer

नई दिल्ली, 11 अगस्त, 2011

का.आ. 2434.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नेशनल एवियेशन कम्पनी ऑन इण्डिया (एयर ई.) के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक

विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, दिल्ली नं. 1, के पंचाट (संदर्भ संख्या 69/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-8-2011 को प्राप्त हुआ था।

[सं. एल-20013/01/2011-आईआर (सी-1)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 11th August, 2011

S.O. 2434.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 69/2010) of the Central Government Industrial Tribunal-cum-Labour Court-1, Delhi as shown in the Annexure in the industrial dispute between the employers in relation to the management of M/s. National Aviation Company of India (Air India), and their workman, which was received by the Central Government on 11-8-2011.

[No. L-20013/01/2011-IR (C-1)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE DR. R. K. YADAV, PRESIDING OFFICER
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
NO.1, KARKARDOOMA COURTS COMPLEX,
DELHI.

LD.No.69/2010

Shri Ram Chander S/o Shri Hoshiar Singh,
Flat No.A1/3/107, IA.Colony,
Vasant Vihar,
New Delhi-110057.

...Workman

Versus

M/s National Aviation Company of India (Air India),
Airlines House, Gurudwara Rakabganj Road,
New Delhi - 110001.

...Management

AWARD

Air India Ltd. (formerly known as National Aviation Company of India Ltd.) engaged Shri Ram Chander as a Loader on 01-04-1986. He was promoted to the post of Lead Assistant, vide order dated 18-12-2008. His services were terminated on 26-5-2010, without holding an enquiry or affording any opportunity to show cause against the proposed act. He raised an industrial dispute before the Conciliation Officer on 7-6-2010, through his union. Conciliation Officer entered conciliation proceedings and on expiry of period of 45 days, Shri Ram Chander raised a dispute before this Tribunal, under the provisions of sub-section (2) of Section 2A of the Industrial Disputes Act 1947 (in short the Act), without being referred by the appropriate Government for adjudication.

2. The Tribunal has jurisdiction to adjudicate an industrial dispute on being referred to it under clause (d) of sub-section (1) of Section 10 of the Act. A legal fiction has been created by Section 2A of the Act which enacts that when any employer discharges, dismisses, retrenches or otherwise terminates services of an individual workman, any dispute or difference between that workman and his employer connected with or arisen out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute, notwithstanding that no other workman nor any union of workman is a party to the dispute. The language used in Section 2-A of the Act clearly states that in order to make a dispute an industrial dispute it must be sponsored by a substantial number of workmen, but where dispute relates to or arises out of discharge, dismissal retrenchment or termination of services of an individual workman, it will be treated as an industrial dispute. Therefore, the dispute raised by the claimant before this Tribunal is an industrial dispute, adjudication of which is to be resorted to by this Tribunal.

3. The Parliament enacted Industrial Disputes (Amendment) Act, 2010, which came into operation on 15th of September, 2010. The Amended Act makes provision that a workman whose services have been discharged, dismissed, retrenched or otherwise terminated may make an application direct to this Tribunal for adjudication, after expiry of 45 days from the date he made the application to the Conciliation Officer for Conciliation of the dispute and in respect of such an application the Tribunal shall have powers and jurisdiction to adjudicate upon the dispute as if it were a dispute referred to it by the appropriate Government, in accordance with the provisions of the Act. In view of above proposition of law, claim statement of Sh. Ram Chander was entertained.

4. Claim was demurred by the management, pleading that provisions of sub-section (2) of Section 2A of the Act are not applicable to the present controversy, since it came in to existence on 15-9-2010, while services of Shri Ram Chander were terminated on 26-5-2010. Since no demand was made by him individually, hence no industrial dispute came in existence. It was claimed that the claimant performs supervisory functions, hence he is not a workman. Narrating facts relating to tragic and unfortunate air crash on 22-5-2010, it is asserted that Shri Y.V.Raju, General Secretary, All India Aircraft Engineer's Association, expressed his views before the press, in violation of instructions issued vide orders dated 2-7-09 and 24-5-2010. He was called upon to explain his conduct, vide letter dated 24-5-10, on receipt of which he instigated employees of the management to walk out of their work place. Some of the employees joined agitation and abstained from duties. Claimant did not report for his duties on 25th and 26th May, 2010 and prevented willing employees from entering inside the terminal building at I.G.I. Airport. He

indulged in gross violations and detrimental to the interest of the management. Hence his services were terminated, reasons for which action were fully known to him. It has been pleaded that the management would like to prove his misconduct before this Tribunal, if situation so necessitates. It was prayed that his claim may be dismissed.

5. On pleadings of the parties, following issues were settled:

1. Whether the conciliation proceedings raised prior to enactment of Industrial Disputes (Amendment) Act, 2010 has not relevance for present dispute ?
2. Whether the claimant was under an obligation to raise an individual demand on the management ?
3. Whether the provisions of Industrial Disputes (Amendment) Act, 2010 does not come for the rescue of the claimant?
4. Whether the management was at liberty to dispense with the services of the claimant without providing any pre-decisional or post decisional hearing?
5. Whether the services of the claimant were dispensed with by the management during pendency of conciliation proceedings before the Conciliation Officer ? If yes, its effect.
6. Whether the claimant is entitled for relief of reinstatement with continuity of service?

6. An application, for casting preliminary issue as to maintainability of the claim statement, was moved by the management. The said application was disposed off vide order dated 20-12-2010.

7. Order dated 20-12-2010 was assailed before High Court of Delhi, by way of a writ petition, on which order dated 4-1-2011 was passed, staying further proceedings before this Tribunal.

8. During currency of the stay orders, granted by High Court of Delhi, the claimant and Shri Sunder Das Chhabra, Senior Manager of the management, appeared before this Tribunal. Claimant made a statement, announcing that he does not want to prosecute his claim statement and it may be dismissed as not pressed. Shri Chhabra clarified that the management has no objection if his application is disposed off, during currency of the stay orders, as referred above.

9. Appearance of both parties and act of moving an application by the claimant make it apparent that on account of some understanding between the parties, the claimant wants to abandon his grievances against the management. He withdrew his attack on the action of the

management, in terminating his services. Abstinence from asserting his right against the management, for whatsoever reasons, highlights that there remains no dispute between the parties on which this Tribunal is called upon to enter into adjudication. In view of these changed circumstances an award is, accordingly, passed. It be sent to the appropriate Government for publication.

Dated: 24-6-2011

Dr. R. K. YADAV, Presiding Officer

नई दिल्ली, 11 अगस्त, 2011

का.आ. 2435.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसराण में, केन्द्रीय सरकार नेशनल एवियेशन कम्पनी ऑफ इण्डिया (एयर ई.) के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, दिल्ली सं. 1, के पंचाट (संदर्भ संख्या 55/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-8-2011 को प्राप्त हुआ था।

[सं. एल-20013/01/2011-आईआर (सी-I)]

डी.एस.एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 11th August, 2011

S.O. 2435.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 55/2010) of the Central Government Industrial Tribunal-cum-Labour Court-1, Delhi as shown in the Annexure in the industrial dispute between the employers in relation to the management of M/s. National Aviation Company of India (Air India), and their workman, which was received by the Central Government on 11-8-2011.

[No. L-20013/01/2011-IR (C-I)]

D.S.S. SRINIVASA RAO, Desk Officer

ANNEXURE

**BEFORE DR. R.K. YADAV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
NO.1, KARKARDOOMA COURTS COMPLEX,
DELHI**

I.D.No. 55/2010

Shri Sant Ram S/o Late Shri Rishal Singh,
Village & P.O. Amberhai,
Sector-19, Dwarka,
New Delhi-110075

...Workman

Versus

M/s National Aviation Company of India (Air India),
Airlines House, Gurudwara Rakabganj Road,
New Delhi-110001

...Management

AWARD

Air India Ltd. (formerly known as National Aviation Company of India Ltd.) engaged Shri Sant Ram as a Catering Helper on 29-04-1985. He was promoted to the post of Office Assistant, vide order dated 19-12-2008. His services were terminated on 26-5-2010, without holding an enquiry or affording any opportunity to show cause against the proposed act. He raised an industrial dispute before the Conciliation Officer on 7-6-2010, through his union. Conciliation Officer entered conciliation proceedings and on expiry of period of 45 days, Shri Sant Ram raised a dispute before this Tribunal, under the provisions of sub-section (2) of Section 2A of the Industrial Disputes Act, 1947 (in short the Act), without being referred by the appropriate Government for adjudication.

2. The Tribunal has jurisdiction to adjudicate an industrial dispute on being referred to it under clause (d) of sub-section (1) of Section 10 of the Act. A legal fiction has been created by Section 2A of the Act which enacts that when any employer discharges, dismisses, retrenches or otherwise terminates services of an individual workman, any dispute or difference between that workman and his employer connected with or arisen out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute, notwithstanding that no other workman nor any union of workman is a party to the dispute. The language used in Section 2-A of the Act clearly states that in order to make a dispute an industrial dispute it must be sponsored by a substantial number of workmen, but where dispute relates to or arises out of discharge, dismissal, retrenchment or termination of services of an individual workman, it will be treated as an industrial dispute. Therefore, the dispute raised by the claimant before this Tribunal is an industrial dispute, adjudication of which is to be resorted by this Tribunal.

3. The Parliament enacts Industrial disputes (Amendment) Act, 2010, which came into operation on 15th of September, 2010. The Amended Act makes provisions that a workman whose services have been discharged, dismissed, retrenched or otherwise terminated may make an application direct to this Tribunal for adjudication, after expiry of 45 days from the date he made the application to the Conciliation Officer for conciliation of the dispute and in respect of such an application the Tribunal shall have powers and jurisdiction to adjudicate upon the dispute as if it were dispute referred to it by the appropriate Government, in accordance with the provisions of the Act. In view of above proposition of law, claim statement of Sh. Sant Ram was entertained.

4. Claim was demurred by the management pleading that provisions of sub-section (2) of Section 2A of the Act are not applicable to the present controversy, since it came in to existence on 15-9-2010, while services of

Shri Sant Ram were terminated on 26-5-2010. Since no demand was made by him individually, hence no industrial dispute came in existence. It was claimed that the claimant performs supervisory functions, hence he is not a workman. Narrating facts relating to tragic and unfortunate air crash on 22-5-2010, it is asserted that Shri Y.V. Raju, General Secretary, All India Aircraft Engineer's Association, expressed his views before the press, in violation of instructions issued vide orders dated 2-7-09 and 24-5-2010. He was called upon to explain his conduct, vide letter dated 24-5-10, on receipt of which he instigated employees of the management to walk out of their work place. Some of the employees joined agitation and abstained from duties. Claimant did not report for his duties on 25th and 26th May, 2010 and prevented willing employees from entering inside the terminal building at L.G.L Airport. He indulged in gross violations and detrimental to the interest of the management. Hence his services were terminated, reasons for which action were fully known to him. It has been pleaded that the management would like to prove his misconduct before this Tribunal, if situation so necessitates. It was prayed that his claim may be dismissed.

5. On pleadings of the parties, following issues were settled :

1. Whether the conciliation proceedings raised prior to enactment of Industrial Disputes (Amendment) Act, 2010 has no relevance for present dispute?
2. Whether the claimant was under an obligation to raise an individual demand on the management?
3. Whether the provisions of Industrial Disputes (Amendment) Act, 2010 does not come for the rescue of the claimant?
4. Whether the management was at liberty to dispense with the services of the claimant without providing any pre-decisional or post decisional hearing ?
5. Whether the services of the claimant were dispensed with by the management during pendency of conciliation proceedings before the Conciliation Officer ? If yes, its effect.
6. Whether the claimant is entitled for relief of reinstatement with continuity of service?

6. An application, for casting preliminary issue as to maintainability of the claim statement, was moved by the management. The said application was disposed off vide order dated 20-12-2010.

7. Order dated 20-12-2010 was assailed before High Court of Delhi, by way of a writ petition, on which order

dated 4-1-2011 was passed, staying further proceedings before this Tribunal.

8. During currency of the stay orders, granted by High Court of Delhi, the claimant and Shri Sunder Das Chhabra, Senior Manager of the management, appeared before this Tribunal. Claimant made a statement, announcing that he does not want to prosecute his claim statement and it may be dismissed as not pressed. Shri Chhabra clarified that the management has no objection if his application is disposed off, during currency of the stay orders, as referred above.

9. Appearance of both parties and act of moving an application by the claimant make it apparent that on account of some understanding between the parties, the claimant wants to abandon his grievances against the management. He withdrew his attack on the action of the management, in terminating his services. Abstinence from asserting his right against the management, for whatsoever reasons, highlights that there remains no dispute between the parties on which this Tribunal is called upon to enter into adjudication. In view of these changed circumstances an award is, accordingly, passed. It be sent to the appropriate Government for publication.

Dated : 24-6-2011

Dr. R. K. YADAV, Presiding Officer

नई दिल्ली, 11 अगस्त, 2011

का.आ. 2436.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नेशनल एवियेशन कम्पनी ऑफ इंडिया (एयर इंडिया) के प्रबंधन के संबंध में उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-I, दिल्ली को पंचाट (संदर्भ संख्या 54/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-8-2011 को प्राप्त हुआ था।

[सं. एल-20013/01/2011-आईआर (सी-I)]

डी.एस.एस.श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 11th August, 2011

S.O. 2436.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 54/2010) of the Central Government Industrial Tribunal-cum-Labour Court-1, Delhi as shown in the Annexure in the industrial dispute between the employers in relation to the management of M/s. National Aviation Company of India (Air India) and their workmen which was received by the Central Government on 11-8-2010.

[No. L-20013/01/2011-IR (C-I)]

D.S.S. SRINIVASA RAO, Desk Officer

ANNEXURE

**BEFORE DR. R. K. YADAV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
NO.1, KARKARDOOMA COURTS COMPLEX, DELHI**

I. D. No. 54/2010

Shri Sanjay Pandey S/o Late Shri Suresh Pandey,
Flat No.B/3/26, IA Housing Colony,
Vasant Vihar,
New Delhi-110 057

....Workman

Versus

M/s. National Aviation Company of India (Air India),
Airlines House, Gurudwara Rakabganj Road,
New Delhi-110001. ... Management

AWARD

Air India Ltd. (formerly known as National Aviation Company of India Ltd.) engaged Shri Sanjay Pandey as a Office Assistant on 24-11-1983. He was promoted to the post of Office Superintendent (S.G.), vide order dated 1-11-2007. His services were terminated on 26-5-2010, without holding an enquiry or affording any opportunity to show cause against the proposed act. He raised an industrial dispute before the Conciliation Officer on 7-6-2010, through his union. Conciliation Officer entered conciliation proceedings and on expiry of period of 45 days, Shri Sanjay Pandey raised a dispute before this Tribunal, under the provisions of sub-section (2) of section 2A of the Industrial Disputes Act, 1947 (in short the Act), without being referred by the appropriate Government for adjudication.

2. The Tribunal has jurisdiction to adjudicate an industrial dispute on being referred to it under clause (d) of sub-section (1) of section 10 of the Act. A legal fiction has been created by section 2A of the Act which enacts that when any employer discharges, dismisses, retrenches or otherwise terminates services of an individual workman, any dispute or difference between that workman and his employer connected with or arisen out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute, notwithstanding that no other workman nor any union of workman is a party to the dispute. The language used in section 2-A of the Act clearly states that in order to make a dispute an industrial dispute it must be sponsored by a substantial number of workmen, but where dispute relates to or arises out of discharge, dismissal retrenchment or termination of services of an individual workman, it will be treated as an industrial dispute. Therefore, the dispute raised by the claimant before this Tribunal is an industrial dispute, adjudication of which is to be resorted by this Tribunal.

3. The Parliament enacted Industrial Disputes (Amendment) Act, 2010, which came into operation on

15th of September, 2010. The Amended Act makes provision that a workman whose services have been discharged, dismissed, retrenched or otherwise terminated may make an application direct to this Tribunal for adjudication, after expiry of 45 days from the date he made the application to the Conciliation Officer for conciliation of the dispute and in respect of such an application the Tribunal shall have powers and jurisdiction to adjudicate upon the dispute as if it were a dispute referred to it by the appropriate Government, in accordance with the provisions of the Act. In view of above proposition of law, claim statement of Sh. Sanjay Pandey was entertained.

4. Claim was demurred by the management, pleading that provisions of sub-section (2) of section 2A of the Act are not applicable to the present controversy, since it came in to existence on 15-9-2010, while services of Shri Sanjay Pandey were terminated on 26-5-2010. Since no demand was made by him individually, hence no industrial dispute came in existence. It was claimed that the claimant performs supervisory functions, hence he is not a workman. Narrating facts relating to tragic and unfortunate air crash on 22-5-2010, it is asserted that Shri Y.V.Raju, General Secretary, All India Aircraft Engineer's Association, expressed his views before the press, in violation of instructions issued vide orders dated 2-7-09 and 24-5-2010. He was called upon to explain his conduct, vide letter dated 24-5-10, on receipt of which he instigated employees of the management to walk out of their work place. Some of the employees joined agitation and abstained from duties. Claimant did not report for his duties on 25th and 26th May, 2010 and prevented willing employees from entering inside the terminal building at I.G.I. Airport. He indulged in gross violations and detrimental to the interest of the management. Hence his services were terminated, reasons for which action were fully known to him. It has been pleaded that the management would like to prove his misconduct before this Tribunal, if situation so necessitates. It was prayed that his claim may be dismissed.

5. On pleadings of the parties, following issues were settled:

1. Whether the claimant is not a workman within the meaning of clause (s) of section 2 of the Industrial Disputes Act, 1947 ?
2. Whether the conciliation proceedings raised prior to enactment of Industrial Disputes (Amendment) Act, 2010 has no relevance for present dispute?
3. Whether the claimant was under an obligation to raise an individual demand on the management ?
4. Whether the provisions of Industrial Disputes (Amendment) Act, 2010 does not come for the rescue of the claimant?

5. Whether the management was at liberty to dispense with the services of the claimant without providing any pre-decisional or post decisional hearing?

6. Whether the services of the claimant were dispensed with by the management during pendency of conciliation proceedings before the Conciliation Officer? If yes, its effect.

7. Whether the claimant is entitled for relief of reinstatement with continuity of service?

6. An application, for casting preliminary issue as to maintainability of the claim statement, was moved by the management. The said application was disposed of vide order dated 20-12-2010.

7. Order dated 20-12-2010 was assailed before High Court of Delhi, by way of a writ petition on which order dated 4-1-2011 was passed, staying further proceedings before this Tribunal.

8. During currency of the stay orders, granted by High Court of Delhi, the claimant and Shri Sunder Das Chhabra, Senior Manager of the management, appeared before this Tribunal. Claimant made a statement, announcing that he does not want to prosecute his claim statement and it may be dismissed as not pressed. Shri Chhabra clarified that the management has no objection if his application is disposed of, during currency of the stay orders, as referred above.

9. Appearance of both parties and act of moving an application by the claimant make it apparent that on account of some understanding between the parties, the claimant wants to abandon his grievances against the management. He withdrew his attack on the action of the management, in terminating his services. Abstinence from asserting his right against the management, for whatsoever reasons, highlights that there remains no dispute between the parties on which this Tribunal is called upon to enter into adjudication. In view of these changed circumstances an award is, accordingly, passed. It be sent to the appropriate Government for publication.

Dated : 24-06-2011

Dr. R.K. YADAV, Presiding Officer

नई दिल्ली, 11 अगस्त, 2011

का.आ. 2437.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नेशनल एवियेशन कम्पनी ऑफ इंडिया (एयर इंडिया) के प्रबंधन के संबंध में उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, दिल्ली के पंचाट (संदर्भ संख्या 53/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-8-2011 को प्राप्त हुआ था।

[सं. एल-20013/01/2011-आईआर (सी-I)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 11th August, 2011

S.O. 2437.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 53/2010) of the Central Government Industrial Tribunal-cum-Labour Court-1, Delhi as shown in the Annexure in the industrial dispute between the employers in relation to the management of M/s. National Aviation Company of India (Air India) and their workmen which was received by the Central Government on 11-8-2010.

[No. L-20013/01/2011-IR (C-I)]

D.S.S. SRINIVASA RAO, Desk Officer

ANNEXURE

**BEFORE DR. R. K. YADAV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
NO.1, KARKARDOOMA COURTS COMPLEX, DELHI**

I. D. No. 53/2010

Shri Anand Prakash S/o Shri Suraj Bhan,
Flat No. 350, Sector-188,
Block-B, Plantinum Heights,
HIG Flats, Dwarka,
New Delhi-110075

.... Workman

Versus

M/s. National Aviation Company of India (Air India),
Airlines House, Gurudwara Rakabganj Road,
New Delhi-110001.

.... Management

AWARD

Air India Ltd. (formerly known as National Aviation Company of India Ltd.) engaged Shri Anand Prakash as a M.T. Helper (G.S.D.) on 16-6-1992. He was promoted to the post of Transport Assistant (G.S.D.), vide order dated 6-2-2008. His services were terminated on 26-5-2010, without holding an enquiry or affording any opportunity to show cause against the proposed act. He raised an industrial dispute before the Conciliation Officer on 7-6-2010, through his union. Conciliation Officer entered conciliation proceedings and on expiry of period of 45 days, Shri Anand Prakash raised a dispute before this Tribunal, under the provisions of sub-section (2) of section 2A of the Industrial Disputes Act, 1947 (in short the Act), without being referred by the appropriate Government for adjudication.

2. The Tribunal has jurisdiction to adjudicate an industrial dispute on being referred to it under clause (d) of sub-section (1) of section 10 of the Act. A legal fiction has been created by section 2A of the Act which enacts that when any employer discharges, dismisses, retrenches or otherwise terminates services of an individual workman, any dispute or difference between that workman and his employer connected with or arisen out of, such discharge,

dismissal, retrenchment or termination shall be deemed to be an industrial dispute, notwithstanding that no other workman nor any union of workman is a party to the dispute. The language used in section 2-A of the Act clearly states that in order to make a dispute an industrial dispute it must be sponsored by a substantial number of workmen, but where dispute relates to or arises out of discharge, dismissal retrenchment or termination of services of an individual workman, it will be treated as an industrial dispute. Therefore, the dispute raised by the claimant before this Tribunal is an industrial dispute, adjudication of which is to be resorted by this Tribunal.

3. The Parliament enacted Industrial Disputes (Amendment) Act, 2010, which came into operation on 15th of September, 2010. The Amended Act makes provision that a workman whose services have been discharged, dismissed, retrenched or otherwise terminated may make an application direct to this Tribunal for adjudication, after expiry of 45 days from the date he made the application to the Conciliation Officer for conciliation of the dispute and in respect of such an application the Tribunal shall have powers and jurisdiction to adjudicate upon the dispute as if it were a dispute referred to it by the appropriate Government, in accordance with the provisions of the Act. In view of above proposition of law, claim statement of Sh. Anand Prakash was entertained.

4. Claim was demurred by the management, pleading that provisions of sub-section (2) of section 2A of the Act are not applicable to the present controversy, since it came into existence on 15-9-2010, while services of Shri Anand Prakash were terminated on 26-5-2010. Since no demand was made by him individually, hence no industrial dispute came in existence. It was claimed that the claimant performs supervisory functions, hence he is not a workman. Narrating facts relating to tragic and unfortunate air crash on 22-5-2010, it is asserted that Shri Y.V. Raju, General Secretary, All India Aircraft Engineer's Association, expressed his views before the press, in violation of instructions issued vide orders dated 2-7-2009 and 24-5-2010. He was called upon to explain his conduct, vide letter dated 24-5-10, on receipt of which he instigated employees of the management to walk out of their work place. Some of the employees joined agitation and abstained from duties. Claimant did not report for his duties on 25th and 26th May, 2010 and prevented willing employees from entering inside the terminal building at I.G.I. Airport. He indulged in gross violations and detrimental to the interest of the management. Hence his services were terminated, reasons for which action were fully known to him. It has been pleaded that the management would like to prove his misconduct before this Tribunal, if situation so necessitates. It was prayed that his claim may be dismissed.

5. On pleadings of the parties, following issues were settled:

1. Whether the conciliation proceedings raised prior to enactment of Industrial Disputes (Amendment) Act, 2010 has no relevance for present dispute?
2. Whether the claimant was under an obligation to raise an individual demand on the management?
3. Whether the provisions of Industrial Disputes (Amendment) Act, 2010 does not come for the rescue of the claimant?
4. Whether the management was at liberty to dispense with the services of the claimant without providing any pre-decisional or post-decisional hearing?
5. Whether the services of the claimant were dispensed with by the management during pendency of conciliation proceedings before the Conciliation Officer? If yes, its effect.
6. Whether the claimant is entitled for relief of reinstatement with continuity of service ?

6. An application, for casting preliminary issue as to maintainability of the claim statement, was moved by the management. The said application was disposed of vide order dated 20-12-2010.

7. Order dated 20-12-2010 was assailed before High Court of Delhi, by way of a writ petition, on which order dated 4-1-2011 was passed, staying further proceedings before this Tribunal.

8. During currency of the stay orders, granted by High Court of Delhi, the claimant and Shri Sunder Das Chhabra, Senior Manager of the management, appeared before this Tribunal. Claimant made a statement, announcing that he does not want to prosecute his claim statement and it may be dismissed as not pressed. Shri Chhabra clarified that the management has no objection if his application is disposed of, during currency of the stay orders, as referred above.

9. Appearance of both parties and act of moving an application by the claimant make it apparent that on account of some understanding between the parties, the claimant wants to abandon his grievances against the management. He withdrew his attack on the action of the management, in terminating his services. Abstinence from asserting his right against the management, for whatsoever reasons, highlights that there remains no dispute between the parties on which this Tribunal is called upon to enter into adjudication. In view of these changed circumstances an award is, accordingly, passed. It be sent to the appropriate Government for publication.

Dated : 24-6-2011

Dr. R.K. YADAV, Presiding Officer

नई दिल्ली, 11 अगस्त, 2011

का.आ. 2438.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नेशनल एवियेशन कम्पनी ऑफ इंडिया (एयर इंडिया) के प्रबंधन के संबंध में निोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-1, दिल्ली के पंचाट (संदर्भ संख्या 50/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-8-2011 को प्राप्त हुआ था।

[सं. एल-20013/01/2011-आईआर (सी-I)]

डॉ. एस.एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 11th August, 2011

S.O. 2438.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 50/2010) of the Central Government Industrial Tribunal-cum-Labour Court-1, Delhi as shown in the Annexure in the industrial dispute between the employers in relation to the management of M/s. National Aviation Company of India (Air India) and their workman, received by the Central Government on 11-8-2010.

[No. L-20013/01/2011-IR (C-I)]

D.S.S. SRINIVASARAO, Desk Officer

ANNEXURE

**BEFORE DR. R. K. YADAV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,
NO. 1, KARKARDOOMA COURTS COMPLEX, DELHI**

(I. D. No. 50/2010)

Shri Baljeet Singh S/o Late Shri Uday Chand,
WZ-202-B, Gali No. 14,
Sadh Nagar, Palam Colony
New Delhi-110045

.... Workman

Versus

M/s. National Aviation Company of India (Air India),
Airlines House, Gurudwara Rakabganj Road,
New Delhi-110001.

.... Management

AWARD

Air India Ltd. (formerly known as National Aviation Company of India Ltd.) engaged Shri Baljeet Singh as a Loader on 5-11-1981. He was promoted to the post of Traffic Assistant and lastly as Senior Traffic Superintendent, vide order dated 1-11-2007. His services were terminated on 26-5-2010, without holding an enquiry or affording any opportunity to show cause against the proposed act. He raised an industrial dispute before the Conciliation Officer on 7-6-2010, through his union. Conciliation Officer entered conciliation proceedings and

on expiry of period of 45 days, Shri Baljeet Singh raised a dispute before this Tribunal, under the provisions of sub-section (2) of Section 2A of the Industrial Disputes Act, 1947 (in short the Act), without being referred by the appropriate Government for adjudication.

2. The Tribunal has jurisdiction to adjudicate an industrial dispute on being referred to it under clause (d) of sub-section (i) of Section 10 of the Act. A legal fiction has been created by Section 2A of the Act which enacts that when any employer discharges, dismisses, retrenches or otherwise terminates services of an individual workman, any dispute or difference between that workman and his employer connected with or arisen out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute, notwithstanding that no other workman nor any union of workman is a party to the dispute. The language used in Section 2-A of the Act clearly states that in order to make a dispute an industrial dispute it must be sponsored by a substantial number of workmen, but where dispute relates to or arises out of discharge, dismissal retrenchment or termination of services of an individual workman, it will be treated as an industrial dispute. Therefore, the dispute raised by the claimant before this Tribunal is an industrial dispute, adjudication of which is to be resorted by this Tribunal.

3. The Parliament enacted Industrial Disputes (Amendment) Act, 2010, which came into operation on 15th of September, 2010. The Amended Act makes provision that a workman whose services have been discharged, dismissed, retrenched or otherwise terminated may make an application direct to this Tribunal for adjudication, after expiry of 45 days from the date he made the application to the Conciliation Officer for conciliation of the dispute and in respect of such an application the Tribunal shall have powers and jurisdiction to adjudicate upon the dispute as if it were a dispute referred to it by the appropriate Government, in accordance with the provisions of the Act. In view of above proposition of law, claim statement of Sh. Baljeet Singh was entertained.

4. Claim was demurred by the management, pleading that provisions of sub-section (2) of Section 2A of the Act are not applicable to the present controversy, since it came in to existence on 15-9-2010, while services of Shri Baljeet Singh were terminated on 26-5-2010. Since no demand was made by him individually, hence no industrial dispute came in existence. It was claimed that the claimant performs supervisory functions, hence he is not a workman. Narrating facts relating to tragic and unfortunate air crash on 22-5-2010, it is asserted that Shri Y.V.Raju, General Secretary, All India Aircraft Engineer's Association, expressed his views before the press, in violation of instructions issued vide orders dated 2-7-09 and 24-5-2010. He was called upon to explain his conduct, vide letter

dated 24-5-10, on receipt of which he instigated employees of the management to walk out of their work place. Some of the employees joined agitation and abstained from duties. Claimant did not report for his duties on 25th and 26th May, 2010 and prevented willing employees from entering inside the terminal building at I.G.I. Airport. He indulged in gross violation and detrimental to the interest of the management. Hence his services were terminated, reasons for which action were fully known to him. It has been pleaded that the management would like to prove his misconduct before this Tribunal, if situation so necessitates. It was prayed that his claim may be dismissed.

5. On pleadings of the parties, following issues were settled:

1. Whether the claimant is not a workman within the meaning of clause (s) of Section 2 of the Industrial Disputes Act, 1947 ?
2. Whether the conciliation proceedings raised prior to enactment of Industrial Disputes (Amendment) Act, 2010 has no relevance for present dispute?
3. Whether the claimant was under an obligation to raise an individual demand on the management?
4. Whether the provisions of Industrial Disputes (Amendment) Act, 2010 does not come for the rescue of the claimant?
5. Whether the management was at liberty to dispense with the services of the claimant without providing any pre-decisional or post decisional hearing?
6. Whether the services of the claimant were dispensed with by the management during pendency of conciliation proceedings before the Conciliation Officer? If yes, its effect.
7. Whether the claimant is entitled for relief of reinstatement with continuity of service?
6. An application, for casting preliminary issue as to maintainability of the claim statement, was moved by the management. The said application was disposed off vide order dated 20-12-2010.
7. Order dated 20-12-2010 was assailed before High Court of Delhi, by way of a writ petition on which order dated 4-1-2011 was passed, staying further proceedings before this Tribunal.
8. During currency of the stay orders, granted by High Court of Delhi, the claimant and Shri Sunder Das Chhabra, Senior Manager of the management, appeared before this Tribunal. Claimant made a statement, announcing that he does not want to prosecute his claim statement and it may be dismissed as not pressed. Shri Chhabra clarified that the management has no objection if

his application is disposed off, during currency of the stay orders, as referred above.

9. Appearance of both parties and act of moving an application by the claimant make it apparent that on account of some understanding between the parties, the claimant wants to abandon his grievances against the management. He withdrew his attack on the action of the management, in terminating his services. Abstinence from asserting his right against the management, for whatsoever reasons, highlights that there remains no dispute between the parties on which this Tribunal is called upon to enter into adjudication. In view of these changed circumstances an award is, accordingly, passed. It be sent to the appropriate Government for publication.

Dated : 24-6-2011

Dr. R.K. YADAV, Presiding Officer

नई दिल्ली, 11 अगस्त, 2011

का.आ. 2439.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नेशनल एवियेशन कम्पनी ऑफ इंडिया (एयर इंडिया) के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-1, दिल्ली के पंचाट (संदर्भ संख्या 57/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-8-2011 को प्राप्त हुआ था।

[सं. एल-20013/01/2011-आईआर (सी-I)]

डी.एस.एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 11th August, 2011

S.O. 2439.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 57/2010) of the Central Government Industrial Tribunal-cum-Labour Court-1, Delhi as shown in the Annexure in the industrial dispute between the employers in relation to the management of M/s. National Aviation Company of India (Air India) and their workmen, which was received by the Central Government on 11-8-2010.

[No. L-20013/01/2011-IR (C-I)]

D.S.S. SRINIVASA RAO, Desk Officer

ANNEXURE

**BEFORE DR. R. K. YADAV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
NO.1, KARKARDOOMA COURTS COMPLEX, DELHI**

I. D. No. 57/2010

Shri R.S. Chauhan S/o Shri Rattan Singh
H.No. 141-A, Palam Ext. Part-I,
Sector-7, Dwarka,
New Delhi-110075

....Workman

Versus

M/s National Aviation Company of India (Air India),
Airlines House, Gurudwara Rakabganj Road,
New Delhi-110001

.... Management

AWARD

Air India Ltd. (formerly known as National Aviation Company of India Ltd.) engaged Shri R.S.Chauhan as a Safai Karamchari on 10-1-1990. He was promoted to the post of Operations Assistant and lastly as Operations Superintendent, vide order dated 31-12-2002. His services were terminated on 26-5-2010, without holding an enquiry or affording any opportunity to show cause against the proposed act. He raised an industrial dispute before the Conciliation Officer on 7-6-2010, through his union. Conciliation Officer entered conciliation proceedings and on expiry of period of 45 days, Shri R.S.Chauhan raised a dispute before this Tribunal, under the provisions of sub-section (2) of Section 2A of the Industrial Disputes Act 1947 (in short the Act), without being referred by the appropriate Government for adjudication.

2. The Tribunal has jurisdiction to adjudicate an industrial dispute on being referred to it under clause (d) of sub-section (1) of section 10 of the Act. A legal fiction has been created by Section 2A of the Act which enacts that when any employer discharges, dismisses, retrenches or otherwise terminates services of an individual workman, any dispute or difference between that workman and his employer connected with or arisen out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute, notwithstanding that no other workman nor any union of workman is a party to the dispute. The language used in Section 2-A of the Act clearly states that in order to make a dispute an industrial dispute it must be sponsored by a substantial number of workmen, but where dispute relates to or arises out of discharge, dismissal retrenchment or termination of services of an individual workman, it will be treated as an industrial dispute. Therefore, the dispute raised by the claimant before this Tribunal is an industrial dispute, adjudication of which is to be resorted by this Tribunal.

3. The Parliament enacted Industrial Disputes (Amendment) Act, 2010, which came into operation on 15th of September, 2010. The Amended Act makes provision that a workman whose services have been discharged, dismissed, retrenched or otherwise terminated may make an application direct to this Tribunal for adjudication, after expiry of 45 days from the date he made the application to the Conciliation Officer for conciliation of the dispute and in respect of such an application the Tribunal shall have powers and jurisdiction to adjudicate upon the disputes as if it were a dispute referred to it by the appropriate Government, in accordance with the provisions of the Act. In view of above proposition of law, claim statement of Sh.R.S.Chauhan was entertained.

4. Claim was demurred by the management, pleading that provisions of sub-section (2) of Section 2A of the Act are not applicable to the present controversy, since it came into existence on 15-9-2010, while services of Shri R.S.Chauhan were terminated on 26-5-2010. Since no demand was made by him individually, hence no industrial dispute came in existence. It was claimed that the claimant performs supervisory functions, hence he is not a workman. Narrating facts relating to tragic and unfortunate air crash on 22-5-2010, it is asserted that Shri Y.V.Raju, General Secretary, All India Aircraft Engineer's Association, expressed his views before the press, in violation of instructions issued vide orders dated 2-7-09 and 24-5-2010. He was called upon to explain his conduct, vide letter dated 24-5-10, on receipt of which he instigated employees of the management to walk out of their work place. Some of the employees joined agitation and abstained from duties. Claimant did not report for his duties on 25th and 26th May, 2010 and prevented willing employees from entering inside the terminal building at I.G.I. Airport. He indulged in gross violations and detrimental to the interest of the management. Hence his services were terminated, reasons for which action were fully known to him. It has been pleaded that the management would like to prove his misconduct before this Tribunal, if situation so necessitates. It was prayed that his claim may be dismissed.

5. On pleadings of the parties, following issues were settled :

1. Whether the claimant is not a workman within the meaning of clause (s) of Section 2 of the Industrial Disputes Act, 1947 ?
2. Whether the conciliation proceedings raised prior to enactment of Industrial Disputes (Amendment) Act, 2010 has no relevance for present dispute?
3. Whether the claimant was under an obligation to raise an individual demand on the management?
4. Whether the provisions of Industrial Disputes (Amendment) Act, 2010 does not come for the rescue of the claimant?
5. Whether the management was at liberty to dispense with the services of the claimant without providing any pre-decisional or post decisional hearing?
6. Whether the services of the claimant were dispensed with by the management during pendency of conciliation proceedings before the Conciliation Officer? If yes, its effect.
7. Whether the claimant is entitled for relief of reinstatement with continuity of service?

6. An application, for casting preliminary issue as to maintainability of the claim statement, was moved by the management. The said application was disposed off vide order dated 20-12-2010.

7. Order dated 20-12-2010 was aasailed before High Court of Delhi, by way of writ petition which order dated 4-1-2011 was passed, staying further proceedings before this Tribunal.

8. During currency of the stay orders, granted by High Court of Delhi, the claimant and Shri Sunder Das Chhabra, Senior Manager of the management, appeared before this Tribunal. Claimant made a statement, announcing that he does not want to prosecute his claim statement and it may be dismissed as not pressed. Shri Chhabra clarified that the management has no objection if his application is disposed off, during currency of the stay orders, as referred above.

9. Appearance of both parties and act of moving an application by the claimant make it apparent that on account of some understanding between the parties, the claimant wants to abandon his grievances against the management. He withdrew his attack on the action of the management, in terminating his services. Abstinence from asserting his right against the management, for whatsoever reasons, highlights that there remains no dispute between the parties on which this Tribunal is called upon to enter into adjudication. In view of these changed circumstances an award is, accordingly, passed. It be sent to the appropriate Government for publication.

Dated : 24-6-2011

Dr. R.K. YADAV, Presiding Officer

नई दिल्ली, 11 अगस्त, 2011

का.आ. 2440.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नेशनल एवियेशन कम्पनी ऑफ इंडिया (एयर ई) के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, दिल्ली-नं. 1 के पंचाट (संदर्भ संख्या 52/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-8-2011 को प्राप्त हुआ था।

[सं. एल-20013/01/2011-आईआर (सी-I)]

डी. एस.एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 11th August, 2011

S.O. 2440.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 52/2010) of the Central Government Industrial Tribunal-cum-Labour Court-1, New Delhi as shown in the Annexure in the industrial dispute between the employers in relation to the

management of M/s. National Aviation Company of India (Air India) and their workmen, received by the Central Government on 11-8-2011.

[No. L-20013/01/2011-IR (C-I)]

D. S.S. SRINIVASARAO, Desk Officer

ANNEXURE

**BEFORE DR. R. K. YADAV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
NO.1, KARKARDOOMA COURTS COMPLEX, DELHI**

I. D. No. 52/2010

Shri Rajesh Kumar
L-265, Street No.9,
Mahipal Pur Extension,
New Delhi-110037

....Workman

Versus

M/s National Aviation Company of India (Air India),
Airlines House, Gurudwara Rakabganj Road,
New Delhi-110001.

.... Management

AWARD

Air India Ltd. (formerly known as National Aviation Company of India Ltd.) engaged Shri Rajesh Kumar as a Loader on 6-6-1984. He was promoted to the post of Senior Traffic Superintendent, in the year 1994. His services were terminated on 26-5-2010, without holding an enquiry or affording any opportunity to show cause against the proposed act. He raised an industrial dispute before the Conciliation Officer on 7-6-2010, through his union. Conciliation Officer entered conciliation proceedings and on expiry of period of 45 days, Shri Rajesh Kumar raised a dispute before this Tribunal, under the provisions of sub-section (2) of Section 2A of the Industrial Disputes Act 1947 (in short the Act), without being referred by the appropriate Government for adjudication.

2. The Tribunal has jurisdiction to adjudicate an industrial dispute on being referred to it under clause (d) of sub-section (1) of Section 10 of the Act. A legal fiction has been created by Section 2A of the Act which enacts that when any employer discharges, dismisses, retrenches or otherwise terminates services of an individual workman, any dispute or difference between that workman and his employer connected with or arisen out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute, notwithstanding that no other workman nor any union of workman is a party to the dispute. The language used in Section 2-A of the Act clearly states that in order to make a dispute an industrial dispute it must be sponsored by a substantial number of workmen, but where dispute relates to or arises out of discharge, dismissal

retrenchment or termination of services of an individual workman, it will be treated as an industrial dispute. Therefore, the dispute raised by the claimant before this Tribunal is an industrial dispute, adjudication of which is to be resorted by this Tribunal.

3. The Parliament enacted Industrial Disputes (Amendment) Act, 2010, which came into operation on 15th of September, 2010. The Amended Act makes provision that a workman whose services have been discharged, dismissed, retrenched or otherwise terminated may make an application direct to this Tribunal for adjudication, after expiry of 45 days from the date he made the application to the Conciliation Officer for conciliation of the dispute and in respect of such an application the Tribunal shall have powers and jurisdiction to adjudicate upon the dispute as if it were a dispute referred to it by the appropriate Government, in accordance with the provisions of the Act. In view of above proposition of law, claim statement of Sh. Rajesh Kumar was entertained.

4. Claim was demurred by the management, pleading that provisions of sub-section (2) of Section 2A of the Act are not applicable to the present controversy, since it came into existence on 15-9-2010, while services of Shri Rajesh Kumar were terminated on 26-5-2010. Since no demand was made by him individually, hence no industrial dispute came in existence. It was claimed that the claimant performs supervisory functions, hence he is not a workman. Narrating facts relating to tragic and unfortunate air crash on 22-5-2010, it is asserted that Shri Y. V. Raju, General Secretary, All India Air Craft Engineer's Association, expressed his views before the press, in violation of instructions issued vide orders dated 2-7-09 and 24-5-2010. He was called upon to explain his conduct, vide letter dated 24-5-10, on receipt of which he instigated employees of the management to walk out of their work place. Some of the employees joined agitation and abstained from duties. Claimant did not report for his duties on 25th and 26th May, 2010 and prevented willing employees from entering inside the terminal building at I.G.I. Airport. He indulged in gross violations and detrimental to the interest of the management. Hence his services were terminated, reasons for which action were fully known to him. It has been pleaded that the management would like to prove his misconduct before this Tribunal, if situation so necessitates. It was prayed that his claim may be dismissed.

5. On pleadings of the parties, following issues were settled:

1. Whether the claimant is not a workman within the meaning of clause (s) of Section 2 of the Industrial Disputes Act, 1947?
2. Whether the conciliation proceedings raised prior to enactment of Industrial Disputes

(Amendment) Act, 2010 has no relevance for present dispute?

3. Whether the claimant was under an obligation to raise an individual demand on the management?
4. Whether the provisions of Industrial Disputes (Amendment) Act, 2010 does not come for the rescue of the claimant?
5. Whether the management was at liberty to dispense with the services of the claimant without providing any pre-decisional or post decisional hearing?
6. Whether the services of the claimant were dispensed with by the management during pendency of conciliation proceedings before the Conciliation Officer? If yes, its effect.
7. Whether the claimant is entitled for relief of reinstatement with continuity of service?

6. An application, for casting preliminary issue as to maintainability of the claim statement, was moved by the management. The said application was disposed off vide order dated 20-12-2010.

7. Order dated 20-12-2010 was assailed before High Court of Delhi, by way of a writ petition, on which order dated 4-1-2011 was passed, staying further proceedings before this Tribunal.

8. During currency of the stay orders, granted by High Court of Delhi, the claimant and Shri Sunder Das Chhabra, Senior Manager of the management appeared before this Tribunal. Claimant made a statement, announcing that he does not want to prosecute his claim statement and it may be dismissed as not pressed. Shri Chhabra clarified that the management has no objection if his application is disposed off, during currency of the stay orders, as referred above.

9. Appearance of both parties and act of moving an application by the claimant make it apparent that on account of some understanding between the parties, the claimant wants to abandon his grievances against the management. He withdrew his attack on the action of the management, in terminating his services. Abstinence from asserting his right against the management, for whatsoever reasons, highlights that there remains no dispute between the parties on which this Tribunal is called upon to enter into adjudication. In view of these changed circumstances an award is, accordingly, passed. It be sent to the appropriate Government for publication.

Dated: 24-6-2011

Dr. R.K. YADAV, Presiding Officer

नई दिल्ली, 11 अगस्त, 2011

का.आ. 2441.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नेशनल एवियेशन कम्पनी ऑफ इंडिया (एयर इंडिया) के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, दिल्ली सं.-1 के पंचाट (संदर्भ संख्या 51/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-8-2011 को प्राप्त हुआ था।

[सं. एल-20013/01/2011-आईआर (सी-1)]

डॉ. एस.एस.श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 11th August, 2011

S.O. 2441.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 51/2010) of the Central Government Industrial Tribunal-cum-Labour Court-I, New Delhi as shown in the Annexure in the industrial dispute between the employers in relation to the management of M/s. National Aviation Company of India (Air India) and their workmen which was, received by the Central Government on 11-8-2011.

[No. L-20013/01/2011-IR (C-I)]

D. S.S. SRINIVASA RAO, Desk Officer

ANNEXURE

**BEFORE DR. R. K. YADAV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
NO.1, KARKARDOOMA COURTS COMPLEX, DELHI**

I. D. No. 51/2010

Shri Mashkoor Alam S/o Shri Nazir Ahmed,
C-1, Palika Niwas,
Lodhi Colony,
New Delhi

....Workman

Versus

M/s. National Aviation Company of India (Air India),
Airlines House, Gurudwara Rakabganj Road,
New Delhi-110001.

.... Management

AWARD

Air India Ltd. (formerly known as National Aviation Company of India Ltd.) engaged Shri Mashkoor Alam as a Loader on 7-06-1986. He was promoted to the post of Lead Assistant, vide order dated 18-12-2008. His services were terminated on 26-5-2010, without holding an enquiry or affording any opportunity to show cause against the proposed act. He raised an industrial dispute before the Conciliation Officer on 7-6-2010, through his union. Conciliation Officer entered conciliation proceedings and on expiry of period of 45 days, he raised a dispute before

this Tribunal under the provisions of sub-section (2) of Section 2A of the Industrial Disputes Act, 1947 (in short the Act), without being referred by the appropriate Government for adjudication.

2. The Tribunal has jurisdiction to adjudicate an industrial dispute on being referred to it under clause (d) of sub-section (1) of Section 10 of the Act. A legal fiction has been created by Section 2A of the Act which enacts that when any employer discharges, dismisses, retrenches or otherwise terminates services of an individual workman, any dispute or difference between that workman and his employer connected with or arisen out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute, notwithstanding that no other workman nor any union of workman is a party to the dispute. The language used in Section 2-A of the Act clearly states that in order to make a dispute an industrial dispute it must be sponsored by a substantial number of workmen, but where dispute relates to or arises out of discharge, dismissal, retrenchment or termination of services of an individual workman, it will be treated as an industrial dispute. Therefore, the dispute raised by the claimant before this Tribunal is an industrial dispute, adjudication of which is to be resorted by this Tribunal.

3. The Parliament enacted Industrial Disputes (Amendment) Act, 2010, which came into operation on 15th of September, 2010. The Amended Act makes provision that a workman whose services have been discharged, dismissed, retrenched or otherwise terminated may make an application direct to this Tribunal for adjudication after expiry of 45 days from the date he made the application to the Conciliation Officer for conciliation of the dispute and in respect of such an application the Tribunal shall have powers and jurisdiction to adjudicated upon the dispute as if it were a dispute referred to it by the appropriate Government, in accordance with the provisions of the Act. In view of above proposition of law, claim statement of Sh. Mashkoor Alam was entertained.

4. Claim was demurred by the management, pleading that provisions of sub-section (2) of Section 2A of the Act are not applicable to the present controversy, since it came into existence on 15-9-2010, while services of Shri Mashkoor Alam were terminated on 26-5-2010. Since no demand was made by him individually, hence no industrial dispute came into existence. It was claimed that the claimant performs supervisory functions, hence he is not a workman. Narrating facts relating to tragic and unfortunate air crash on 22-5-2010, it is asserted that Shri Y.V. Raju, General Secretary, All India Aircraft Engineer's Association, expressed his views before the press, in violation of instructions issued vide orders dated 2-7-09 and 24-5-2010. He was called upon to explain his conduct, vide letter dated 24-5-10, on receipt of which he

instigated employees of the management to walk out of their work place. Some of the employees joined the agitation and abstained from duties. Claimant did not report for his duties on 25th and 26th May, 2010 and prevented building at I.G.I. Airport. He indulged in gross violations and detrimental to the interest of the management. Hence his services were terminated, reasons for which action were fully known to him. It has been pleaded that the management would like to prove his misconduct before this Tribunal, if situation so necessitates. It was played that his claim may be dismissed.

5. On pleadings of the parties, following issues were settled :

1. Whether the conciliation proceedings raised prior to enactment of Industrial Disputes (Amendment) Act, 2010 has no relevance for present dispute?
2. Whether the claimant was under an obligation to raise an individual demand on the management?
3. Whether the provisions of Industrial Disputes (Amendment) Act, 2010 does not come for the rescue of the claimant?
4. Whether the management was at liberty to dispense with the services of the claimant without providing any pre-decisional or post decisional hearing?
5. Whether the services of the claimant were dispensed with by the management during pendency of conciliation proceedings before the Conciliation Officer? If yes, its effect.
6. Whether the claimant is entitled for relief of reinstatement with continuity of service?

6. An application, for casting preliminary issue as to maintainability of the claim statement, was moved by the management. The said application was disputed off vide order dated 20-12-2010.

7. Order dated 20-12-2010 was assailed before High Court of Delhi, by way of a unit petition, on which order dated 4-1-2011 was passed staying further proceedings before This Tribunal.

8. During currency of the stay orders, granted by High Court of Delhi, the claimant and Shri Sunder Das Chhabra, Senior Manager of the management, appeared before this Tribunal. Claimant made a statement, announcing that he does not want to prosecute his claim statement and it may be dismissed as not pressed. Shri Chhabra clarified that the management has no objection, if his application is disposed off, during currency of the stay orders, as referred above.

9. Appearance of both parties and act of moving an application by the claimant make it apparent that on account of some understanding between the parties, the claimant wants to abandon his grievances against the management. He withdrawn his attack on the action of the management, in terminating his services. Abstinance from asserting his right against the management, for whatsoever reasons, highlights that there remains no dispute on which this Tribunal is called upon to enter into adjudication. In view of these changed circumstances, an award is, accordingly, passed. It be sent to appropriate Government for publication.

Dated : 24-6-2011

Dr. R.K. YADAV, Presiding Officer

नई दिल्ली, 11 अगस्त, 2011

का.आ. 2442.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नेशनल एवियेशन कम्पनी ऑफ इंडिया (एयर इंडिया) के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, दिल्ली के पंचाट (संदर्भ संख्या 58/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-8-2011 को प्राप्त हुआ था।

[सं. एल-20013/01/2011-आईआर (सी-1)]

डी. एस.एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 11th August, 2011

S.O. 2442.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 58/2010) of the Central Government Industrial Tribunal-cum-Labour Court-1, Delhi, as shown in the Annexure in the industrial dispute between the employers in relation to the management of M/s. National Aviation Company of India (Air India) and their workmen, which was received by the Central Government on 11-8-2011.

[No. L-20013/01/2011-IR (C-I)]

D. S.S. SRINIVASA RAO, Desk Officer

ANNEXURE

**BEFORE DR. R. K. YADAV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
NO.1, KARKARDOOMA COURTS COMPLEX, DELHI**

I. D. No. 58/2010

Ms. Sangeeta Choudhary,
121, Metro View Apartments,
Pocket-B, Phase-II, Sector-13,
Dwarka, New Delhi

.... Workman

Versus

M/s. National Aviation Company of India (Air India),
Airlines House, Gurudwara Rakabganj Road,
New Delhi-110001 Management

AWARD

Air India Ltd. (formerly known as National Aviation Company of India Ltd.) engaged Ms. Sangeeta Choudhary as a Cabin Crew on July, 1986. She was promoted to the post of Chief Cabin Crew in year 2002. Her services were terminated on 26-5-2010, without holding an enquiry or affording any opportunity to show cause against the proposed act. She raised an industrial dispute before the Conciliation Officer on 7-6-2010, through her union. Conciliation Officer entered conciliation proceedings and on expiry of period of 45 days, Ms. Sangeeta Choudhary raised a dispute before this Tribunal, under the provisions of sub-section (2) of Section 2A of the Industrial Disputes Act 1947 (in short the Act), without being referred by the appropriate Government for adjudication.

2. The Tribunal has jurisdiction to adjudicate an industrial dispute on being referred to it under clause (d) of sub-section (1) of section 10 of the Act. A legal fiction has been created by Section 2A of the Act which enacts that when any employer discharges, dismisses, retrenches or otherwise terminates services of an individual workman, any dispute or difference between that workman and his employer connected with or arisen out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute, notwithstanding that no other workman nor any union of workman is a party to the dispute. The language used in Section 2-A of the Act clearly states that in order to make a dispute an industrial dispute it must be sponsored by a substantial number of workmen, but where dispute relates to or arises out of discharge, dismissal, retrenchment or termination of services of an individual workman, it will be treated as an industrial dispute. Therefore, the dispute raised by the claimant before this Tribunal is an industrial dispute, adjudication of which is to be resorted by this Tribunal.

3. The Parliament enacted Industrial Disputes (Amendment) Act, 2010, which came into operation on 15th of September, 2010. The Amended Act makes provision that a workman whose services have been discharged, dismissed, retrenched or otherwise terminated may make an application direct to this Tribunal for adjudication, after expiry of 45 days from the date she made the application to the Conciliation Officer for conciliation of the dispute and in respect of such an application the Tribunal shall have powers and jurisdiction to adjudicate upon the dispute as if it were a dispute referred to it by the appropriate Government, in accordance with the provisions of the Act. In view of above

proposition of law, claim statement of Ms. Sangeeta Choudhary was entertained.

4. Claim was demurred by the management, pleading that provisions of sub-section (2) of Section 2A of the Act are not applicable to the present controversy, since it came in to existence on 15-9-2010, while services of Ms. Sangeeta Choudhary were terminated on 26-5-2010. Since no demand was made by her individually, hence no industrial dispute came in existence. It was claimed that the claimant performs supervisory functions, hence she is not a workman. Narrating facts relating to tragic and unfortunate air crash on 22-5-2010, it is asserted that Shri Y.V. Raju, General Secretary, All India Aircraft Engineer's Association, expressed his views before the press, in violation of instructions issued vide orders dated 2-7-09 and 24-5-2010. She was called upon to explain her conduct, vide letter dated 24-5-10, on receipt of which she instigated employees of the management to walk out of their work place. Some of the employees joined agitation and abstained from duties. Claimant did not report for her duties on 25th and 26th May, 2010 and prevented visiting employees from entering inside the terminal building at I.G.I. Airport. She indulged in gross violations and detrimental to the interest of the management. Hence her services were terminated, reasons for which action were fully known to her. It has been pleaded that the management would like to prove her misconduct before this Tribunal, if situation so necessitates. It was prayed that her claim may be dismissed.

5. On pleadings of the parties, following issues were settled :

1. Whether the claimant is not a workman within the meaning of clause (s) of Section 2 of the Industrial Disputes Act, 1947 ?
2. Whether the conciliation proceedings raised prior to enactment of Industrial Disputes (Amendment) Act, 2010 has no relevance for present dispute?
3. Whether the claimant was under an obligation to raise an individual demand on the management?
4. Whether the provisions of Industrial Disputes (Amendment) Act, 2010 does not come for the rescue of the claimant?
5. Whether the management was at liberty to dispense with the services of the claimant without providing any pre-decisional or post decisional hearing?
6. Whether the services of the claimant were dispensed with by the management during pendency of conciliation proceedings before the Conciliation Officer? If yes, its effect.

7. Whether the claimant is entitled for relief of reinstatement with continuity of service?

6. An application, for casting preliminary issue as to maintainability of the claim statement, was moved by the management. The said application was disposed off vide order dated 20-12-2010.

7. Order dated 20-12-2010 was assailed before High Court of Delhi, by way of a writ petition, on which order dated 4-1-2011 was passed, staying further proceedings before this Tribunal.

8. During currency of the stay orders, granted by High Court of Delhi, the claimant and Shri Sunder Das Chhabra, Senior Manager of the management, appeared before this Tribunal. Claimant made a statement, announcing that she does not want to prosecute her claim statement and it may be dismissed as not pressed. Shri Chhabra clarified that the management has no objection if her application is disposed off, during currency of the stay orders, as referred above.

9. Appearance of both parties and act of moving an application by the claimant make it apparent that on account of some understanding between the parties, the claimant wants to abandon her grievances against the management. She withdrew her attack on the action of the management, in terminating her services. Abstinence from asserting her right against the management, for whatsoever reasons, highlights that there remains no dispute between the parties on which this Tribunal is called upon to enter into adjudication. In view of these changed circumstances an award is, accordingly, passed. It be sent to the appropriate Government for publication.

Dated: 24-6-2011

Dr. R.K. YADAV, Presiding Officer

नई दिल्ली, 11 अगस्त, 2011

का.आ. 2443.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नेशनल एवियेशन कम्पनी ऑफ इंडिया (एयर इंडिया) के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं. 1, दिल्ली, के पंचाट (संदर्भ संख्या 59/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-8-2011 को प्राप्त हुआ था।

[सं. एल-20013/01/2011-आईआर (सी-1)]

डॉ. एस.एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 11th August, 2011

S.O. 2443.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 59/2010)

of the Central Government Industrial Tribunal-cum-Labour Court-1, Delhi, as shown in the Annexure in the industrial dispute between the employers in relation to the management of M/s. National Aviation Company of India (Air India) and their workmen, which was received by the Central Government on 11-8-2011.

[No. L-20013/01/2011-IR (C-1)]

D.S.S. SRINIVASA RAO, Desk Officer

ANNEXURE

**BEFORE DR. R. K. YADAV, PRESIDING OFFICER;
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
NO. 1, KARKARDOOMA COURTS COMPLEX, DELHI**

I. D. No. 59/2010

Ms. Meghna Nanda,
1034-SBI Enclave,
H-Block, Vikas Puri,
New Delhi

....Workman

Versus

M/s. National Aviation Company of India (Air India),
Airlines House, Gurudwara Rakabganj Road,
New Delhi-110001

.... Management

AWARD

Air India Ltd. (formerly known as National Aviation Company of India Ltd.) engaged Ms. Meghna Nanda as a Cabin Crew on 31-12-2004. Her services were terminated on 26-5-2010, without holding an enquiry or affording any opportunity to show cause against the proposed act. She raised an industrial dispute before the Conciliation Officer on 7-6-2010, through her union. Conciliation Officer entered conciliation proceedings and on expiry of period or 45 days, Ms. Meghna Nanda raised a dispute before this Tribunal, under the provisions of sub-section (2) of Section 2A of the Industrial Disputes Act 1947 (in short the Act), without being referred by the appropriate Government for adjudication.

2. The Tribunal has jurisdiction to adjudicate an industrial dispute on being referred to it under clause (d) of sub-section (1) of Section 10 of the Act. A legal fiction has been created by Section 2A of the Act which enacts that when any employer discharges, dismisses, retrenches or otherwise terminates services of an individual workman, any dispute or difference between that workman and his employer connected with or arisen out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute, notwithstanding that no other workman nor any union of workman is a party to the dispute. The language used in Section 2-A of the Act clearly states that in order to make a dispute an industrial dispute it must be sponsored by a substantial number of workmen, but where dispute

relates to or arises out of discharge, dismissal retrenchment or termination of services of an individual workman, it will be treated as an industrial dispute. Therefore, the dispute raised by the claimant before this Tribunal is an industrial dispute, adjudication of which is to be resorted by this Tribunal.

3. The Parliament enacted Industrial Disputes (Amendment) Act, 2010, which came into operation on 15th of September, 2010. The Amended Act makes provision that a workman whose services have been discharged, dismissed, retrenched or otherwise terminated may make an application direct to this Tribunal for adjudication, after expiry of 45 days from the date she made the application to the Conciliation Officer for conciliation of the dispute and in respect of such an application the Tribunal shall have powers and jurisdiction to adjudicate upon the dispute as if it were a dispute referred to it by the appropriate Government, in accordance with the provisions of the Act. In view of above proposition of law, claim statement of Ms. Meghna Nanda was entertained.

4. Claim was demurred by the management, pleading that provisions of sub-section (2) of Section 2A of the Act are not applicable to the present controversy, since it came in to existence on 15-9-2010, while services of Ms. Meghna Nanda were terminated on 26-5-2010. Since no demand was made by her individually, hence no industrial dispute came in existence. It was claimed that the claimant performs supervisory functions, hence she is not a workman. Narrating facts relating to tragic and unfortunate air crash on 22-5-2010, it is asserted that Shri Y. V. Raju, General Secretary, All India Aircraft Engineer's Association, expressed his views before the press, in violation of instructions issued vide orders dated 2-7-09 and 24-5-2010. She was called upon to explain her conduct, vide letter dated 24-5-10, on receipt of which she instigated employees of the management to walk out of their work place. Some of the employees joined agitation and abstained from duties. Claimant did not report for her duties on 25th and 26th May, 2010 and prevented willing employees from entering inside the terminal building at I.G.I. Airport. She indulged in gross violations and detrimental to the interest of the management. Hence her services were terminated, reasons for which action were fully known to her. It has been pleaded that the management would like to prove her misconduct before this Tribunal, if situation so necessitates. It was prayed that her claim may be dismissed.

5. On pleadings of the parties, following issues were settled :

1. Whether the conciliation proceedings raised prior to enactment of Industrial Disputes

(Amendment) Act, 2010 has no relevance for present dispute ?

2. Whether the claimant was under an obligation to raise an individual demand on the management ?
3. Whether the provisions of Industrial Disputes (Amendment) Act, 2010 does not come for the rescue of the claimant ?
4. Whether the management was at liberty to dispense with the services of the claimant without providing any pre-decisional or post decisional hearing ?
5. Whether the services of the claimant were dispensed with by the management during pendency of conciliation proceedings before the Conciliation Officer ? If yes, its effect.
6. Whether the claimant is entitled for relief of reinstatement with continuity of service ?

6. An application, for casting preliminary issue as to maintainability of the claim statement, was moved by the management. The said application was disposed off vide order dated 20-12-2010.

7. Order dated 20-12-2010 was assailed before High Court of Delhi, by way of a writ petition, on which order dated 4-1-2011 was passed, staying further proceedings before this Tribunal.

8. During currency of the stay orders, granted by High Court of Delhi, the claimant and Shri Alok Chatterjee, Deputy Manager (P) of the management, appeared before this Tribunal. Claimant made a statement, announcing that she does not want to prosecute her claim statement and it may be dismissed as not pressed. Shri Chatterjee clarified that the management has no objection if her application is disposed off, during currency of the stay orders, as referred above.

9. Appearance of both parties and act of moving an application by the claimant make it apparent that on account of some understanding between the parties, the claimant wants to abandon her grievances against the management. She withdrew her attack on the action of the management, in terminating her services. Abstinence from asserting her right against the management, for whatsoever reasons, highlights that there remains no dispute between the parties on which this Tribunal is called upon to enter into adjudication. In view of these changed circumstances an award is, accordingly, passed. It be sent to the appropriate Government for publication.

Dated : 27-6-2011

Dr. R.K. YADAV, Presiding Officer

नई दिल्ली, 11 अगस्त, 2011

का.आ. 2444.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नेशनल एवियेशन कम्पनी ऑफ इण्डिया (एयर इण्डिया) के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-नं. 1, दिल्ली के पंचाट (संदर्भ संख्या 60/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-8-2011 को प्राप्त हुआ था।

[सं. एल-20013/01/2011-आईआर (सी-1)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 11th August, 2011

S.O. 2444.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 60/2010) of the Central Government Industrial Tribunal-cum-Labour Court-1, Delhi as shown in the Annexure in the industrial dispute between the management of M/s. National Aviation Company of India (Air India), and their workman, which was received by the Central Government on 11-8-2011.

[No. L-20013/01/2011-IR (C-1)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

**BEFORE DR. R. K. YADAV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL No. 1, KARKARDOOMA
COURTS COMPLEX, DELHI**

I.D. No. 60/2010

Shri Jagmal Singh,
F-130, Lado Sarai,
New Delhi-110030.

... Workman

Versus

M/s National Aviation Company of India (Air India),
Airlines House, Gurudwara Rakabganj Road,
New Delhi-110001.

... Management

AWARD

Air India Ltd. (formerly known as National Aviation company of India Ltd.) engaged Shri Jagmal Singh as a Helper (M.T.) on 19-04-1982. He was promoted time to time and lastly to the post of Senior Master Technician in 2007. His services were terminated on 26-5-2010, without holding an enquiry or affording any opportunity to show cause against the proposed act. He raised an industrial dispute before the Conciliation Officer on 7-6-2010, through his union. Conciliation Officer entered conciliation

proceedings and on expiry of period of 45 days, Shri Jagmal Singh raised a dispute before this Tribunal, under the provisions of sub-section (2) of Section 2A of the Industrial Disputes Act 1947 (in short the Act), without being referred by the appropriate Government for adjudication.

2. The Tribunal has jurisdiction to adjudicate an industrial dispute on being referred to it under clause (d) of sub-section (1) of Section 10 of the Act. A legal fiction has been created by Section 2A of the Act which enacts that when any employer discharges, dismisses, retrenches or otherwise terminates services of an individual workman, any dispute or difference between that workman and his employer connected with or arisen out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute, notwithstanding that no other workman nor any union of workman is a party to the dispute. The language used in Section 2-A of the Act clearly states that in order to make a dispute an industrial dispute it must be sponsored by a substantial number of workmen, but where dispute relates to or arises out of discharge, dismissal retrenchment or termination of services of an individual workman, it will be treated as an industrial dispute. Therefore, the dispute raised by the claimant before this Tribunal is an industrial dispute, adjudication of which is to be resorted by this Tribunal.

3. The Parliament enacted Industrial Disputes (Amendment) Act, 2010, which came into operation on 15th of September, 2010. The Amended Act makes provision that a workman whose services have been discharged, dismissed, retrenched or otherwise terminated may make an application direct to this Tribunal for adjudication, after expiry of 45 days from the date he made the application to the Conciliation Officer for corporation of the dispute and in respect of such an application the Tribunal shall have powers and Jurisdiction to adjudicate upon the dispute as if it were a dispute referred to it by the appropriate Government, in accordance with the provisions of the Act. In view of above proposition of law, claim statement of Sh. Jagmal Singh was entertained.

4. Claim was demurred by the management, pleading that provisions of sub-section (2) of Section 2A of the Act are not applicable to the present controversy, since it came in to existence on 15-9-2010, while services of Shri Jagmal Singh were terminated on 26-5-2010. Since no demand was made by him individually, hence no industrial dispute came in existence. It was claimed that the claimant performs supervisory functions, hence he is not a workman. Narrating facts relating to tragic and unfortunate air crash on 22-5-2010, it is asserted that Shri Y. V. Raju, General Secretary, All India Aircraft Engineer's Association, expressed his views before the press, in violation of instructions issued vide orders dated 2-7-09 and 24-5-2010. He was called upon to explain his conduct, vide letter dated 24-5-10, on receipt of which he instigated employees

of the management to walk out of their work place. Some of the employees joined agitation and abstained from duties. Claimant did not report for his duties on 25th and 26th May, 2010 and prevented willing employees from entering inside the terminal building at I.G.I. Airport. He indulged in gross violations and detrimental to the interest of the management. Hence his services were terminated, reasons for which action were fully known to him. It has been pleaded that the management would like to prove his misconduct before this Tribunal, if situation so necessitates. It was prayed that his claim may be dismissed.

5. On pleadings of the parties, following issues were settled :

1. Whether the conciliation proceedings raised prior to enactment of Industrial Disputes (Amendment) Act, 2010 has no relevance for present dispute?
2. Whether the claimant was under an obligation to raise an individual demand on the management?
3. Whether the provisions of Industrial Disputes (Amendment) Act, 2010 does not come for the rescue of the claimant?
4. Whether the management was at liberty to dispense with the services of the claimant without providing any pre-decisional or post decisional hearing?
5. Whether the services of the claimant were dispensed with by the management during pendency of conciliation proceedings before the Conciliation Officer? If yes, its effect.
6. Whether the claimant is entitled for relief of reinstatement with continuity of service?

6. An application, for casting preliminary issue as to maintainability of the claim statement, was moved by the management. The said application was disposed off vide order dated 20-12-2010.

7. Order dated 20-12-2010 was assailed before High Court of Delhi, by way of a writ petition which order dated 4-1-2011 was passed, staying further proceedings before this Tribunal.

8. During currency of the stay orders, granted by High Court of Delhi, the claimant and Shri Sunder Das Chhabra, Senior Manager of the management, appeared before this Tribunal. Claimant made a statement, announcing that he does not want to prosecute his claim statement and it may be dismissed as not pressed. Shri Chhabra clarified that the management has no objection if his application is disposed off, during currency of the stay orders, as referred above.

9. Appearance of both parties and act of moving an application by the claimant make it apparent that on account of some understanding between the parties, the claimant wants to abandon his grievances against the management. He withdrew his attack on the action of the management, in terminating his services. Abstinence from asserting his right against the management, for whatsoever reasons, highlights that there remains no dispute between the parties on which this Tribunal is called upon to enter into adjudication. In view of these changed circumstances an award is, accordingly, passed. It be sent to the appropriate Government for publication.

Dated: 24-6-2011

Dr. R. K. YADAV, Presiding Officer

नई दिल्ली, 11 अगस्त, 2011

का.आ. 2445.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नेशनल एवियेशन कम्पनी ऑफ इण्डिया (एयर इण्डिया) के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, दिल्ली के पंचाट (संदर्भ संख्या 61/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-8-2011 को प्राप्त हुआ था।

[सं. एल-20013/01/2011-आईआर (सी-1)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 11th August, 2011

S.O. 2445.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 61/2010) of the Central Government Industrial Tribunal-cum-Labour Court-1, Delhi as shown in the Annexure in the industrial dispute between the management of M/s. National Aviation Company of India (Air India), and their workman, which was received by the Central Government on 11-8-2011.

[No. L-20013/01/2011-IR (C-1)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

**BEFORE DR. R. K. YADAV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL No. 1, KARKARDOOMA
COURTS COMPLEX, DELHI**

I.D. No. 61/2010

Shri Rohtash Singh S/o Shri Surat Singh,
24/447, Behru Park,
Near Trivani School, Bahadurgarh,
Distt. Jhajjar, (Haryana).

...Workman

Versus

M/s National Aviation Company of India (Air India),
Airlines House, Gurudwara Rakabganj Road,
New Delhi-110001.

...Management

AWARD

Air India Ltd. (formerly known as National Aviation Company of India Ltd.) engaged Shri Rohtash Singh as a Driver (MT) on 8-3-1989. He was promoted time to time and lastly to the post of Senior Operator (GSD), vide order dated 31-12-2008. His services were terminated on 26-5-2010, without holding an enquiry or affording any opportunity to show cause against the proposed act. He raised an industrial dispute before the Conciliation Officer on 7-6-2010, through his union. Conciliation Officer entered conciliation proceedings and on expiry of period of 45 days, Shri Rohtash Singh raised a dispute before this Tribunal, under the provisions of sub-section (2) of Section 2A of the Industrial Disputes Act 1947 (in short the Act), without being referred by the appropriate Government for adjudication.

2. The Tribunal has jurisdiction to adjudicate an industrial dispute on being referred to it under clause (d) of sub-section (1) of Section 10 of the Act. A legal fiction has been created by Section 2A of the Act which enacts that when any employer discharges, dismisses, retrenches or otherwise terminates services of an individual workman, any dispute or difference between that workman and his employer connected with or arisen out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute, notwithstanding that no other workman nor any union of workman is a party to the dispute. The language used in Section 2-A of the Act clearly states that in order to make a dispute an industrial dispute it must be sponsored by a substantial number of workmen, but where dispute relates to or arises out of discharge, dismissal retrenchment or termination of services of an individual workman, it will be treated as an industrial dispute. Therefore, the dispute raised by the claimant before this Tribunal is an industrial dispute, adjudication of which is to be resorted by this Tribunal.

3. The Parliament enacted Industrial Disputes (Amendment) Act, 2010, which came into operation on 15th of September, 2010. The Amended Act makes provision that a workman whose services have been discharged, dismissed, retrenched or otherwise terminated may make an application direct to this Tribunal for adjudication, after expiry of 45 days from the date he made the application to the Conciliation Officer for conciliation of the dispute and in respect of such an application the Tribunal shall have powers and jurisdiction to adjudicate upon the dispute as if it were a dispute referred to it by the appropriate Government, in accordance with the provisions

of the Act. In view of above proposition of law, claim statement of Sh.Rohtash Singh was entertained.

4. Claim was demurred by the management, pleading that provisions of sub-section (2) of Section 2A of the Act are not applicable to the present controversy, since it came in to existence on 15-9-2010, while services of Shri Rohtash Singh were terminated on 26-5-2010. Since no demand was made by him individually, hence no industrial dispute came in existence. It was claimed that the claimant performs supervisory functions, hence he is not a workman. Narrating facts relating to tragic and unfortunate air crash on 22-5-2010, it is asserted that Shri Y.V.Raju, General Secretary, All India Aircraft Engineer's Association, expressed his views before the press, in violation of instructions issued vide orders dated 2-7-09 and 24-5-2010. He was called upon to explain his conduct, vide letter dated 24-5-10, on receipt of which he instigated employees of the management to walk out of their work place. Some of the employees joined agitation and abstained from duties. Claimant did not report for his duties on 25th and 26th May, 2010 and prevented willing employees from entering inside the terminal building at I.G.I. Airport. He indulged in gross violations and detrimental to the interest of the management. Hence his services were terminated, reasons for which action were fully known to him. It has been pleaded that the management would like to prove his misconduct before this Tribunal, if situation so necessitates. It was prayed that his claim may be dismissed.

5. On pleadings of the parties, following issues were settled :

1. Whether the conciliation proceedings raised prior to enactment of Industrial Disputes (Amendment) Act, 2010 has no relevance for present dispute?
2. Whether the claimant was under an obligation to raise an individual demand on the management?
3. Whether the provisions of Industrial Disputes (Amendment) Act, 2010 does not come for the rescue of the claimant?
4. Whether the management was at liberty to dispense with the services of the claimant without providing any pre-decisional or post decisional hearing?
5. Whether the services of the claimant were dispensed with by the management during pendency of conciliation proceedings before the Conciliation Officer? If yes, its effect.
6. Whether the claimant is entitled for relief of reinstatement with continuity of service?

6. An application, for casting preliminary issue as to maintainability of the claim statement, was moved by the management. The said application was disposed off vide order dated 20-12-2010.

7. Order dated 20-12-2010 was assailed before High Court of Delhi, by way of a writ petition on which order dated 4-1-2011 was passed, staying further proceedings before this Tribunal.

8. During currency of the stay orders, granted by High Court of Delhi, the claimant and Shri Sunder Das Chhabra, Senior Manager of the management, appeared before this Tribunal. Claimant made a statement, announcing that he does not want to prosecute his claim statement and it may be dismissed as not pressed. Shri Chhabra clarified that the management has no objection if his application is disposed off, during currency of the stay orders, as referred above.

9. Appearance of both parties and act of moving an application by the claimant make it apparent that on account of some understanding between the parties, the claimant wants to abandon his grievances against the management. He withdrew his attack on the action of the management, in terminating his services. Abstinence from asserting his right against the management, for whatsoever reasons, highlights that there remains no dispute between the parties on which this Tribunal is called upon to enter into adjudication. In view of these changed circumstances an award is, accordingly, passed. It be sent to the appropriate Government for publication.

Dated: 24-6-2011

Dr. R. K. YADAV, Presiding Officer

नई दिल्ली, 11 अगस्त, 2011

क्र.आ. 2446.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नेशनल एवियेशन कम्पनी ऑफ इण्डिया (एयर इण्डिया) के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय दिल्ली नं. 1 के पंचाट (संदर्भ संख्या 65/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-8-2011 को प्राप्त हुआ था।

[सं. एल-20013/01/2011-आईआर (सी-1)]

डी.एस.एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 11th August, 2011

S.O. 2446.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 65/2010) of the Central Government Industrial Tribunal-cum-Labour Court-1, Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. National Aviation Company of India

(Air India), and their workman, which was received by the Central Government on 11-8-2011.

[No. L-20013/01/2011-IR (C-I)]

D.S.S. SRINIVASA RAO, Desk Officer

ANNEXURE

**BEFORE DR. R. K. YADAV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
No.1, KARKARDOOMA COURTS COMPLEX,
DELHI**

I.D. No. 65/2010

Ms. Maria Ann Thorpe,
RZF-30, Flat No. 103-B, Lotus Apartments,
Lane No. 3, Mahavir Enclave,
Palam Road, Dwarka,
New Delhi.

...Workman

Versus

M/s National Aviation Company of India (Air India),
Airlines House, Gurudwara Rakabganj Road,
New Delhi-110001.

...Management

AWARD

Air India Ltd. (formerly known as National Aviation Company of India Ltd.) engaged Ms. Maria Ann Thorpe as a Cabin Crew on July, 1982. She was promoted to the post of Chief Cabin Crew in year 2002. Her services were terminated on 26-5-2010, without holding an enquiry or affording any opportunity to show cause against the proposed act. She raised an industrial dispute before the Conciliation Officer on 7-6-2010, through her union. Conciliation Officer entered conciliation proceedings and on expiry of period of 45 days, Ms. Maria Ann Thorpe raised a dispute before this Tribunal, under the provisions of sub-section (2) of Section 2A of the Industrial Disputes Act 1947 (in short the Act), without being referred by the appropriate Government for adjudication.

2. The Tribunal has jurisdiction to adjudicate an industrial dispute on being referred to it under clause (d) of sub-section (1) of Section 10 of the Act. A legal fiction has been created by Section 2A of the Act which enacts that when any employer discharges, dismisses, retrenches or otherwise terminates services of an individual workman, any dispute or difference between that workman and his employer connected with or arisen out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute, notwithstanding that no other workman nor any union of workman is a party to the dispute. The language used in Section 2-A of the Act clearly states that in order to make a dispute an industrial dispute it must be sponsored by a substantial number of workmen,

but where dispute relates to or arises out of discharge, dismissal retrenchment or termination of services of an individual workman, it will be treated as an industrial dispute. Therefore, the dispute raised by the claimant before this Tribunal is an industrial dispute, adjudication of which is to be resorted by this Tribunal.

3. The Parliament enacted Industrial Disputes (Amendment) Act, 2010, which came into operation on 15th of September, 2010. The Amended Act makes provision that a workman whose services have been discharged, dismissed, retrenched or otherwise terminated may make an application direct to this Tribunal for adjudication, after expiry of 45 days from the date she made the application to the Conciliation Officer for conciliation of the dispute and in respect of such an application the Tribunal shall have powers and jurisdiction to adjudicate upon the dispute as if it were a dispute referred to it by the appropriate Government, in accordance with the provisions of the Act. In view of above proposition of law, claim statement of Ms. Maria Ann Thorpe was entertained.

4. Claim was demurred by the management, pleading that provision of sub-section (2) of Section 2A of the Act are not applicable to the present controversy, since it came in to existence on 15-9-2010, while services of Ms. Maria Ann Thorpe were terminated on 26-5-2010. Since no demand was made by her individually, hence no industrial dispute came in existence. It was claimed that the claimant performs supervisory functions, hence she is not a workman. Narrating facts relating to tragic and unfortunate air crash on 22-5-2010, it is asserted that Shri Y.V.Raju, General Secretary, All India Aircraft Engineer's Association, expressed his views before the press, in violation of instructions issued vide orders dated 2-7-09 and 24-5-2010. She was called upon to explain her conduct, vide letter dated 24-5-10, on receipt of which she instigated employees of the management to walk out of their work place. Some of the employees joined agitation and abstained from duties. Claimant did not report for her duties on 25th and 26th May, 2010 and prevented willing employees from entering inside the terminal building at I.G.I. Airport. She indulged in gross violations and detrimental to the interest of the management. Hence her services were terminated, reasons for which action were fully known to her. It has been pleaded that the management would like to prove her misconduct before this Tribunal, if situation so necessitates. It was prayed that her claim may be dismissed.

5. On pleadings of the parties, following issues were settled :

1. Whether the claimant is not a workman within the meaning of clause (s) of Section 2 of the Industrial Disputes Act, 1947 ?

2. Whether the conciliation proceedings raised prior to enactment of Industrial Disputes (Amendment) Act, 2010 has no relevance for present dispute?
3. Whether the claimant was under an obligation to raise an individual demand on the management?
4. Whether the provisions of Industrial Disputes (Amendment) Act, 2010 does not come for the rescue of the claimant?
5. Whether the management was at liberty to dispense with the services of the claimant without providing any pre-decisional or post decisional hearing?
6. Whether the services of the claimant were dispensed with by the management during pendency of conciliation proceedings before the Conciliation Officer? If yes, its effect.
7. Whether the claimant is entitled for relief of reinstatement with continuity of service?

6. An application, for casting preliminary issue as to maintainability of the claim statement, was moved by the management. The said application was disposed off vide order dated 20-12-2010.

7. Order dated 20-12-2010 was assailed before High Court of Delhi, by way of a writ petition on which order dated 4-1-2011 was passed, staying further proceedings before this Tribunal.

8. During currency of the stay orders, granted by High Court of Delhi, the claimant and Shri Sunder Das Chhabra, Senior Manager of the management, appeared before this Tribunal. Claimant made a statement, announcing that he does not want to prosecute her claim statement and it may be dismissed as not pressed. Shri Chhabra clarified that the management has no objection if her application is disposed off, during currency of the stay orders, as referred above.

9. Appearance of both parties and act of moving an application by the claimant make it apparent that on account of some understanding between the parties, the claimant wants to abandon her grievances against the management. She withdrew her attack on the action of the management, in terminating her services. Abstinence from asserting her right against the management, for whatsoever reasons, highlights that there remains no dispute between the parties on which this Tribunal is called upon to enter into adjudication. In view of these changed circumstances an award is, accordingly, passed. It be sent to the appropriate Government for publication.

Dated: 24-6-2011

Dr. R. K. YADAV, Presiding Officer

नई दिल्ली, 11 अगस्त, 2011

का.आ. 2447.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नेशनल एवियेशन कम्पनी ऑफ इण्डिया (एयर इण्डिया) के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय दिल्ली नं. 1, के पंचाट (संदर्भ संख्या 63/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-8-2011 को प्राप्त हुआ था।

[सं. एल-20013/01/2011-आईआर (सी-1)]

डी.एस.एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 11th August, 2011

S.O. 2447.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 63/2010) of the Central Government Industrial Tribunal-cum-Labour Court-1, Delhi as shown in the Annexure in the industrial dispute between the employers in relation to the management of M/s. National Aviation Company of India (Air India), and their workman, which was received by the Central Government on 11-8-2011.

[No. L-20013/01/2011-IR (C-I)]

D.S.S. SRINIVASA RAO, Desk Officer

ANNEXURE

**BEFORE DR. R. K. YADAV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL No. 1, KARKARDOOMA
COURTS COMPLEX, DELHI.**

I.D. No. 63/2010

Shri J. B. Kadian,,
C-3/323-B, SFS Flates,
Janakpuri,
New Delhi-110058.

...Workman

Versus

M/s National Aviation Company of India (Air India),
Airlines House, Gurudwara Rakabganj Road,
New Delhi-110001.

...Management

AWARD

Air India Ltd. (formerly known as National Aviation Company of India Ltd.) engaged Shri J. B. Kadian as a Typist on 24-12-1979. He was promoted to the post of Office Superintendent and lastly as Office Superintendent (S.G.), vide order dated 26-07-2001. His services were terminated on 26-5-2010, without holding an enquiry or affording any opportunity to show cause against the

proposed act. He raised an industrial dispute before the Conciliation Officer on 7-6-2010, through his union. Conciliation Officer entered conciliation proceedings and on expiry of period of 45 days, Shri J. B. Kadian raised a dispute before this Tribunal, under the provisions of sub-section (2) of Section 2A of the Industrial Disputes Act 1947 (in short the Act), without being referred by the appropriate Government for adjudication.

2. The Tribunal has jurisdiction to adjudicate an industrial dispute on being referred to it under clause (d) of sub-section (1) of Section 10 of the Act. A legal fiction has been created by Section 2A of the Act which enacts that when any employer discharges, dismisses, retrenches or otherwise terminates services of an individual workman, any dispute or difference between that workman and his employer connected with or arisen out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute, notwithstanding that no other workman nor any union of workman is a party to the dispute. The language used in Section 2-A of the Act clearly states that in order to make a dispute an industrial dispute it must be sponsored by a substantial number of workmen, but where dispute relates to or arises out of discharge, dismissal retrenchment or termination of services of an individual workman, it will be treated as an industrial dispute. Therefore, the dispute raised by the claimant before this Tribunal is an industrial dispute, adjudication of which is to be resorted by this Tribunal.

3. The Parliament enacted Industrial Disputes (Amendment) Act, 2010, which came into operation on 15th of September, 2010. The Amended Act makes provision that a workman whose services have been discharged, dismissed, retrenched or otherwise terminated may make an application direct to this Tribunal for adjudication, after expiry of 45 days from the date he made the application to the Conciliation Officer for conciliation of the dispute and in respect of such an application the Tribunal shall have powers and jurisdiction to adjudicate upon the dispute as if it were a dispute referred to it by the appropriate Government, in accordance with the provisions of the Act. In view of above proposition of law, claim statement of Shri B. Kadian was entertained.

4. Claim was demurred by the management, pleading that provisions of sub-section (2) of Section 2A of the Act are not applicable to the present controversy, since it came into existence on 15-9-2010, while services of Shri J. B. Kadian were terminated on 26-5-2010. Since no demand was made by him individually, hence no industrial dispute came into existence. It was claimed that the claimant performs supervisory functions, hence he is not a workman. Narrating facts relating to tragic and unfortunate air crash on 22-5-2010, it is asserted that Shri Y.V. Raju, General Secretary, All India Aircraft Engineer's Association, expressed his views before the press, in violation of instructions issued vide orders dated 2-7-09 and 24-5-2010.

He was called upon to explain his conduct, vide letter dated 24-5-10, on receipt of which he instigated employees of the management to walk out of their work place. Some of the employees joined agitation and abstained from duties. Claimant did not report for his duties on 25th and 26th May, 2010 and prevented willing employees from entering inside the terminal building at IGI Airport. He indulged in gross violations and detrimental to the interest of the management. Hence his services were terminated, reasons for which action were fully known to him. It has been pleaded that the management would like to prove his misconduct before this Tribunal, if situation so necessitates. It was prayed that his claim may be dismissed.

5. On pleadings of the parties, following issues were settled :

1. Whether the claimant is not a workman within the meaning of clause (s) of section 2 of the Industrial Disputes Act, 1947 ?
2. Whether the conciliation proceedings raised prior to enactment of Industrial Disputes (Amendment) Act, 2010 has no relevance for present dispute?
3. Whether the claimant was under an obligation to raise an individual demand on the management?
4. Whether the provisions of Industrial Disputes (Amendment) Act, 2010 does not come for the rescue of the claimant?
5. Whether the management was at liberty to dispense with the services of the claimant without providing any pre-decisional or post decisional hearing?
6. Whether the services of the claimant were dispensed with by the management during pendency of conciliation proceedings before the Conciliation Officer? If yes, its effect.
7. Whether the claimant is entitled for relief of reinstatement with continuity of service?

6. An application, for casting preliminary issue as to maintainability of the claim statement, was moved by the management. The said application was disposed off vide order dated 20-12-2010.

7. Order dated 20-12-2010 was assailed before High Court of Delhi, by way of a writ petition, on which order dated 4-1-2011 was passed, staying further proceedings before this Tribunal.

8. During currency of the stay orders, granted by High Court of Delhi, the claimant and Shri Sunder Das Chhabra, Senior Manager of the management, appeared before this Tribunal. Claimant made a statement, announcing that he does not want to prosecute his claim statement and it may be dismissed as not pressed. Shri

Chhabra clarified that the management has no objection if his application is disposed of during currency of the stay orders, as referred above.

9. Appearance of both parties and act of moving an application by the claimant make it apparent that on account of some understanding between the parties, the claimant wants to abandon his grievances against the management. He withdrew his attack on the action of the management, in terminating his services. Abstinance from asserting his right against the management, for whatsoever reasons, highlights that there remains no dispute between the parties on which this Tribunal is called upon to enter into adjudication. In view of these changed circumstances an award is, accordingly, passed. It be sent to the appropriate Government for publication.

Dated: 24-6-2011

Dr. R. K. YADAV, Presiding Officer

नई दिल्ली, 11 अगस्त, 2011

का.आ. 2448.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसराण में, केन्द्रीय सरकार नेशनल एवियेशन कम्पनी ऑफ इण्डिया (एयर इण्डिया) के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-1, दिल्ली के पंचाट (संदर्भ संख्या 62/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-8 2011 को प्राप्त हुआ था।

[सं. एल-20013/01/2011 आईआर (सी-1)]

डी.एस.एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 11th August, 2011

S.O. 2448.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 62/2010) of the Central Government Industrial Tribunal-cum-Labour Court-1, Delhi as shown in the Annexure in the industrial dispute between the management of M/s. National Aviation Company of India (Air India), and their workmen, which was received by the Central Government on 11-8-2011.

[No. L-20013/01/2011-IR (C-1)]

D.S.S. SRINIVASA RAO, Desk Officer

ANNEXURE

**BEFORE DR. R. K. YADAV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
No. 1, KARKARDOOMA COURTS COMPLEX,
DELHI**

I.D. No. 62/2010

Shri Satish Kumar S/o Shri Ram Singh,
Village & P.O. Tanda Heri,
Tehsil Bhadurgarh, Distt. Jhajjar,
Haryana.

...Workman

Versus

M/s. National Aviation Company of India (Air India),
Airlines House, Gurudwara Rakabganj Road,
New Delhi-110001.

...Management

AWARD

Air India Ltd. (formerly known as National Aviation company of India Ltd.) engaged Shri Satish Kumar as a Driver on 07-02-1989. He was promoted time to time and lastly to the post of Senior Operator, vide order dated 30-06-2008. His services were terminated on 26-5-2010, without holding an enquiry or affording any opportunity to show cause against the proposed act. He raised an industrial dispute before the Conciliation Officer on 7-6-2010, through his union. Conciliation Officer entered conciliation proceedings and on expiry of period of 45 days, Shri Satish Kumar raised a dispute before this Tribunal, under the provisions of sub-section (2) of Section 2A of the Industrial Disputes Act 1947 (in short the Act), without being referred by the appropriate Government for adjudication.

2. The Tribunal has jurisdiction to adjudicate an industrial dispute on being referred to it under clause (d) of sub-section (1) of section 10 of the Act. A legal fiction has been created by Section 2A of the Act which enacts that when any employer discharges, dismisses, retrenches or otherwise terminates services of an individual workman, any dispute or difference between that workman and his employer connected with or arisen out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute, notwithstanding that no other workman nor any union of workman is a party to the dispute. The language used in section 2-A of the Act clearly states that in order to make a dispute an industrial dispute it must be sponsored by a substantial number of workmen, but where dispute relates to or arises out of discharge, dismissal retrenchment or termination of services of an individual workman, it will be treated as an industrial dispute. Therefore, the dispute raised by the claimant before this Tribunal is an industrial dispute, adjudication of which is to be resorted by this Tribunal.

3. The Parliament enacted Industrial Disputes (Amendment) Act, 2010, which came into operation on 15th of September, 2010. The Amended Act makes provision that a workman whose services have been discharged, dismissed, retrenched or otherwise terminated may make an application direct to this Tribunal for adjudication, after expiry of 45 days from the date he made the application to the Conciliation Officer for conciliation of the dispute and in respect of such an application the Tribunal shall have powers and jurisdiction to adjudicate upon the dispute as if it were a dispute referred to it by the appropriate Government, in accordance with the provisions

of the Act. In view of above proposition of law, claim statement of Sh. Satish Kumar was entertained.

4. Claim was demurred by the management, pleading that provisions of sub-section (2) of Section 2A of the Act are not applicable to the present controversy, since it came in to existence on 15-9-2010, while services of Shri Satish Kumar were terminated on 26-5-2010. Since no demand was made by him individually, hence no industrial dispute came in existence. It was claimed that the claimant performs supervisory functions, hence he is not a workman. Narrating facts relating to tragic and unfortunate air crash on 22-5-2010, it is asserted that Shri Y. V. Raju, General Secretary, All India Aircraft Engineer's Association, expressed his views before the press, in violation of instructions issued vide orders dated 2-7-09 and 24-5-2010. He was called upon to explain his conduct, vide letter dated 24-5-10, on receipt of which he instigated employees of the management to walk out of their work place. Some of the employees joined agitation and abstained from duties. Claimant did not report for his duties on 25th and 26th May, 2010 and prevented willing employees from entering inside the terminal building at IGI Airport. He indulged in gross violations and detrimental to the interest of the management. Hence his services were terminated, reasons for which action were fully known to him. It has been pleaded that the management would like to prove his misconduct before this Tribunal, if situation so necessitates. It was prayed that his claim may be dismissed.

5. On pleadings of the parties, following issues were settled :

1. Whether the conciliation proceedings raised prior to enactment of Industrial Disputes (Amendment) Act, 2010 has no relevance for present dispute?
2. Whether the claimant was under an obligation to raise an individual demand on the management?
3. Whether the provisions of Industrial Disputes (Amendment) Act, 2010 does not come for the rescue of the claimant?
4. Whether the management was at liberty to dispense with the services of the claimant without providing any pre-decisional or post decisional hearing?
5. Whether the services of the claimant were dispensed with by the management during pendency of conciliation proceedings before the Conciliation Officer? If yes, its effect.
6. Whether the claimant is entitled for relief of reinstatement with continuity of service?

6. An application, for casting preliminary issue as to maintainability of the claim statement, was moved by the management. The said application was disposed off vide order dated 20-12-2010.

7. Order dated 20-12-2010 was assailed before High Court of Delhi, by way of a writ petition, on which order dated 4-1-2011 was passed, staying further proceedings before this Tribunal.

8. During currency of the stay orders, granted by High Court of Delhi, the claimant and Shri Sunder Das Chhabra, Senior Manager of the management, appeared before this Tribunal. Claimant made a statement, announcing that he does not want to prosecute his claim statement and it may be dismissed as not pressed. Shri Chhabra clarified that the management has no objection if his application is disposed off, during currency of the stay orders, as referred above.

9. Appearance of both parties and act of moving an application by the claimant make it apparent that on account of some understanding between the parties, the claimant wants to abandon his grievances against the management. He withdrew his attack on the action of the management, in terminating his services. Abstinence from asserting his right against the management, for whatsoever reasons, highlights that there remains no dispute between the parties on which this Tribunal is called upon to enter into adjudication. In view of these changed circumstances an award is, accordingly, passed. It be sent to the appropriate Government for publication.

Dated: 24-6-2011

Dr. R. K. YADAV, Presiding Officer

नई दिल्ली, 12 अगस्त, 2011

का.आ. 2449.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आर. पी. एफ. सी. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर के पंचाट (संदर्भ संख्या 190/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-8-2011 को प्राप्त हुआ था।

[सं. एल-42012/86/2002-आईआर (सीएम-II)]

डी.एस.एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 12th August, 2011

S.O. 2449.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 190/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the industrial dispute between the management of O/o RPFC, Nav Bharat Press Complex, Rajbandha Maidan, and their

workmen, received by the Central Government on 12-8-2011.

[No. L-42012/86/2002-IR (CM-II)]

D.S.S. SRINIVASA RAO, Desk Officer

ANNEXURE

**BEFORE SHRI J. P. CHAND, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR**

Case No. CGIT/NGP/190/2002

Date: 27-7-2011

Party No. 1 (a) : The Regional Provident Fund Commissioner, Nav Bharat Press Complex, Rajbandha Maidan, G.E. Road, Raipur (Chhattisgarh)

(b) : The Assistant Provident Fund Commissioner O/o. RPFC, Nav Bharat Press Complex, Rajbandha Maidan, G.E. Road, Raipur, (Chhattisgarh)

Versus

Party No. 2 : Shri Komaldas Ghidode, S/o Shri Bulwadas, Village: Tulsi Baradera, Thana: Mandir-Hasaud, PO: Kurud, Camp-Kurud, Distt. Raipur (Chhattisgarh)

AWARD

(Dated : 27th July, 2011)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute Between the employers, in relation to the management of Employees Provident Fund Commissioner and their workman, Shri Komaldas Ghidode, Ex-peon for adjudication, as per letter No. L-42012/86/2002-IR(CM-II) dated 30-10-2002, with the following schedule:—

"Whether the termination of services of Shri Komaldas Ghidode, Ex-Peon (on daily wages) of O/o. Regional Provident Fund Commissioner, Raipur of Employees Provident Fund Organisation under Ministry of Labour w.e.f. 3-7-99 is legal and justified? If not, to what relief he is entitled to?"

2. On receipt of the reference, parties were notice to file their respective statement of claim and written statement, in response to which, Sh. Komaldas Ghidode ("the workman" in short) filed his statement of claim and the management of Regional Provident Fund

Commissioner ("Party no.1" in short) filed the written statement.

The case of the workman as projected in the statement of claim is that he was appointed by the party no.1 as a peon on daily wages basis on 29-9-98 and he worked till 3-7-99 continuously and he completed 268 days of work, but without any reason, the party no.1 terminated his services orally on 3-7-99 and he agitated the matter before the party no.1, by his letter dated 5-7-99 and the first party appointed one Mohanlal Yadav in his place and his appointment was after conducting an interview by party no. 1, for the post of temporary peon and the post on which, he was working is a clear and vacant post and before termination of his services the mandatory provisions of the Act were not complied with and he was not given one month's notice in advanced or one month's salary in lieu of the notice and retrenchment compensation and as such, the termination of his service is illegal and the provision of Section 25-G was also not complied with and one junior employee, Pramod Kumar Ratre was appointed permanently as a peon. The workman has prayed for setting aside the order of termination and to reinstate him in service of a peon and full back wages with continuity in service.

3. The party no. 1 in its written statement has pleaded Inter-alia that the workman was engaged for limited period to meet some exigencies from time to time, during 8-10-98 to 2-7-99 and he actually worked for 200 days, for which he had already been paid and the workman has committed a legal error in counting the days of his engagement and while counting the days of work, the days on which he had actually worked and for which, wages had been paid are to be counted and while calculating the days of work, the days on which no work was done or no wages had been paid, the same should not have been taken into account. It is further pleaded by the party no.1 that the Employees Provident Fund Organisation is a statutory body constituted under the Employees Provident Funds and Miscellaneous provisions Act, 1952, by the Government of India and there is recruitment rules for appointment of Group 'D' posts and so far the appointment of Shri Ratre and Shri Mohanlal Yadav is concerned, the appointing authority, Regional Provident Fund Commissioner 1, M.P. Region had published a press notification calling for applications from general public for appointment to the post of peon, watchman and sweeper for M.P. Region including Raipur office and applications of 62 candidates direct from the open market were received and name of 74 candidates from the local employment exchange were received and the appointing authority after observing the required procedure for recruitment of Gr. 'D' employee, selected and appointed some persons including Shri Ratre and Shri Yadav and though the workman stopped attending the office in July, 99 and the press notice for appointment was also

issued in July 99, he did not apply for appointment, in response to the said press notice and as such, the workman is not entitled for any relief.

4. The workman examined himself as a witness in support of his case and reiterated the facts mentioned in his statement of claim, in his examination-in-chief, which was on affidavit. One Manoj Kumar, Assistant Regional Provident Fund Commissioner was examined as a witness on behalf of the management. The evidence of Shri Manoj Kumar is also on affidavit. It is necessary to mention here that the evidence of this witness remained unchallenged as neither the workman nor his advocate appeared for his cross-examination.

5. In this case, the workman has claimed that he had worked for more than 240 days in the preceding 12 months of the date of his alleged termination, i.e. 3-7-99. On the other hand, the party no.1 has pleaded that the workman worked for 200 days in total. It is well settled that in such a case, the initial burden lies on the workman to prove that he worked for more than 240 days in the preceding 12 months of the alleged date of termination and such burden doesn't shift to the management and mere filing on affidavit by the workman, claiming to have worked for more than 240 days doesn't discharge the burden of proof and for that, other reliable evidence is required to be produced. Keeping in view the settled principles as mentioned above; now the present case at hand is to be considered. In this case, the workman has produced a letter, in which he was asked by the party no. 1 to appear in an interview on 23-4-98. He has also filed another document showing that after the interview on 23-4-98, he was appointed as a peon for 89 days on temporary basis. The workman has filed 16 documents showing his engagement by party no.1 subsequent to his first appointment for 89 days. On perusal of those documents, it is found that the workman was engaged by the party no.1 for a day or two intermittently from 13-2-99 to 27-6-99 and those document shows that he worked for 17 days from 13-2-99 to 27-6-99. The workman has not produced any other documents to show that he had completed 240 days of work prior to 3-7-99. As the workman has failed to discharge the initial burden of proving that he worked for more than 240 days, it can be said that the provisions of Sections 25-F and 25-G, 25-H of the Act are not applicable to his case. Hence it is ordered :

ORDER

The termination of services of Shri Komaldas Ghidode, Ex-Peon (on daily wages) of O/o. Regional Provident Fund Commissioner, Raipur of Employees Provident Fund Organisation under Ministry of Labour w.e.f. 3-7-99 is legal and justified. The workman is not entitled to any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 12 अगस्त, 2011

का.आ. 2450.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पावर ग्रिड कॉर्पोरेशन के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर के पंचाट (संदर्भ संख्या 53/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-8-2011 को प्राप्त हुआ था।

[सं. एल-42012/49/2000-आईआर (सी-II)]

डी.एस.एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 12th August, 2011

S.O. 2450.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 53/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of Power Grid Corporation, and their workmen, which was received by the Central Government on 12-8-2011.

[No. L-42012/49/2000-IR (C-II)]

D.S.S. SRINIVASA RAO, Desk Officer

ANNEXURE

**BEFORE SHRI J. P. CHAND, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR**

Case No. CGIT/NGP/53/2001

Date: 3-8-2011

Party No. 1 (a) : The General Manager,
Power Grid Corporation of India Ltd.,
Sampriti Nagar, Uppalwadi,
Nari Road, Nagpur(M.S.)

(b) : The Dy. General Manager,
Power Grid Corporation of India Ltd.,
59, Jaynagar, Jalgaon-425003.

Versus

Party No. 2 : Shri Kiran Pandurang Choudhari,
Yogeshwar Nagar, Near Kalika Mata
Mandir, Old Nashirabad Road,
Jalgaon.

AWARD

(Dated : 3rd August, 2011)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in

short), the Central Government has referred the industrial dispute between the employers, in relation to the management of Power Grid Corporation and their workman, Shri Kiran Pandurang Choudhari, for adjudication, as per letter No.L-42012/49/2000-IR(C-II) dated 20-8-2001, with the following schedule :—

"Whether Shri Kiran Pandurang Choudhary was working with the management of Power Grid Corporation, Jalgaon as a clerk. If so, whether the action of the management of Power Grid Corporation in terminating the services of Shri Choudhary by oral order w.e.f. 30-4-1998 is legal and justified? If not, to what relief is the workman entitled?"

2. Being noticed, the petitioner, Shri Kiran Pandurang Choudhary ("the petitioner" in short) filed his statement of claim and the management, Power Grid Corporation ("party no.1" in short) filed its written statement.

The case of the petitioner as projected in the claim petition is that he was working with the party no.1 since 1995 as a clerk at Jalgaon office and he was getting Rs. 50 per day towards his wages and the wages was being paid to him on monthly basis and therefore he is a workman and the party no.1 is an industry, within the meaning of section 2(j) of the Act and his entire service record was clean and unblemished and during the tenure of his service, neither any show cause nor any charge sheet was issued against him and he was maintaining the dispatch register and issuing letters to different persons and on 30-4-98, the party no.1 (b) through Shri S.P. Rajjan, Assistant Engineer directed him orally not to report for duty, on the ground of appointment of a new employee from Khandwa in his place and as such, his service was terminated orally on 30-4-98 illegally and arbitrarily without compliance of the provisions of Section 25(F) of the Act and he had worked for more than 240 days in the year, preceding his oral termination and as such, he filed complaint ULPA No. 92/98 in the Labour Court, Jalgaon and in that case, party no.1 filed written statement denying master and servant relationship between him and party no.1 and when he filed as application to produce the dispatch register and letters issued by him, the party no. 1 denied about the existence of such register and he withdrew the case as the Labour Court did not have jurisdiction to decide the dispute and the Labour Court permitted him to withdraw the case with liberty to approach the proper authority and he approached the labour enforcement officer, Bhusawal for conciliation and before the labour enforcement officer, the party no. 1 for the first time took the plea of his appointment through M/s. Best and Corporation

Engineering Ltd., as a contract labour, therefore the matter could not be settled and then he approached to the ALC (C), Nagpur for conciliation and on failure of the conciliation, the same was reported to the Central Government, who in its turn, referred the dispute to this Tribunal for adjudication. The petitioner has prayed to declare the oral termination dated 30-4-98 as illegal and void and to reinstate him in service with continuity and full back wages.

3. The party no.1(a) in its written statement has pleaded inter-alia that Power Grid Corporation Ltd., is a Government of India undertaking and in case any person is employed, full and proper records are maintained and payment cannot be made to anyone, without obtaining proper receipt and the same is duly accounted for in the book of accounts and without the appointment order issued by the competent authority, nobody can be appointed and the local office at Jalgaon has no authority to make appointment of any employee and the petitioner was not appointed by the Jalgaon office and the claim of the petitioner that he was in its employment from 1995 to 30-4-98 is totally false. It is further pleaded by the party no. 1 (a) that it enters into various contracts with the private parties for construction of transmission lines and one of such contract was entered into by it with M/s. KEC International Ltd., and M/s. Best & Crompton Engineering Ltd., for construction of 400 K. V. DC transmission line from Itarsi to Dhule and the said contractors were duly registered under the provisions of the Contract Labour (Regulation & Abolition) Act, 1970 with the competent authority at Jalgaon and contractor, M/s. Best and Crompton Engineering Ltd., had employed the petitioner as a clerk w.e.f. 1-4-96 and he was in the employment of the said contractor up to 30-8-97 on a daily wages of Rs. 50 and the petitioner was retrenched by the said contractor on 30-8-97, after payment of retrenchment compensation etc. and the petitioner received an amount of Rs. 4529 from the said contractor in full and final settlement of his dues on 30-8-97 and the said contractor was maintaining the attendance record of the petitioner and payments were made to the petitioner by the contractor on the basis of vouchers duly signed by him and it (party no. 1 (b) was not in possession of the documents about the employment of the petitioner with the said contractor, when the petitioner approached the Labour Court at Jalgaon. and subsequently it could get the said documents and as such, the documents were filed in the conciliation proceedings and there was no relationship of employer and employee between the parties and as there is no industrial dispute, the proceeding is liable to be dropped and as the petitioner was never in its employment, the question of orally terminating his service does not arise

and the petitioner is not entitled to any relief.

4. Both the parties led oral evidence in support of their respective claims, besides placing reliance on documentary evidence.

The petitioner examined himself as a witness and in his examination-in-chief, which was on affidavit, he reiterated the facts mentioned in the statement of claim. However, in his cross-examination, the petitioner has admitted that Power Grid is a Government Company and there was no advertisement for the post of clerk and he does not know the procedure of appointment and no appointment letter was given to him. He has also admitted that document no. 1, dated 30-8-97 which is form 'B' of Best and Crompton Engineering Ltd., regarding final settlement, bears his signature and in document no.4, the muster roll from 1-7-97 to 15-7-97, his name is at serial no. 6 and his signature is there and the said document is of Best and Crompton Engineering Ltd.

5. One S.M. Kandwal, Manager (commi) of M/s. Power Grid Corporation of India Ltd., was examined as a witness on behalf of the party no. 1. In his evidence he has also reiterated the facts mentioned in the written statement. The evidence of the witness for the management is also on affidavit. It is necessary to mention here that the evidence of the witness for the management has gone unchallenged as neither the petitioner nor his advocate appeared to cross-examine him.

6. Perused the record. Taking into consideration the pleadings of the parties, the submissions made by the learned advocate for the management orally and so also in the written notes of argument, the admission of the workman in his cross-examination regarding the two documents of M/s. Best and Crompton Engineering Ltd., having his signature, the unchallenged evidence of the witness for the management and the documentary evidence, it is found that the petitioner was working with M/s. Best and Crompton Engineering Ltd., and he was not working as a clerk with party no. 1 as claimed by him and there was no relationship of employer and employee between the petitioner and party no.1 and as such, the petitioner is not entitled for any relief. Hence it is ordered:

ORDER

Petitioner, Shri Kiran Pandurang Choudhary was not working with the management of Power Grid Corporation, Jalgaon as a clerk and as such there was no question of termination of his services by oral order w.e.f. 30-4-98. Shri Kiran Pandurang Choudhary is not entitled for any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 12 अगस्त, 2011

का.आ. 2451.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 158/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-8-2011 को प्राप्त हुआ था।

[सं. एल-22012/216/1994-आईआर (सी-II)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 12th August, 2011

S.O. 2451.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 158/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of WCL, and their workman, which was received by the Central Government on 12-8-2011.

[No. L-22012/216/1994-IR (C-II)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

**BEFORE SHRI J. P. CHAND, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR**

Case No. CGIT/NGP/158/2002

Date: 29-7-2011

Party No. 1 : Sub-Area Manager,
Rajur Colliery of WCL PO: Rajur
Tah: Wani Distt.: Yeotmal (MS)

Versus

Party No. 2 : The President, Koyla Khadan
Karmachari Sangh Jatpura ward no.4,
Chandrapur, Distt. Chandrapur (MS)

AWARD

(Dated : 29th July, 2011)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government had referred the industrial dispute between the employers, in relation to the management of Rajur Colliery of W.C.L. and their workman, Shri Eknath Mahadev Thambe, to the Central Government Industrial Tribunal-Cum-Labour Court, Jabalpur for adjudication, as per letter No. L-22012/216/94-IR(C-II) dated 21-9-1994, with the following schedule : -

"Whether the action of the Sub-Area Manager Rajur Colliery of WCL, PO Rajur, Distt. Yeotmal in terminating the services of Sh. Eknath Mahadeo Thambe Ex. Gen. Mazdoor Rajur Colliery is justified or not? If not, to what relief the workman is entitled?"

2. After receipt of the reference, the parties were noticed to file their respective statement of claim and written statement, in response to which Koyla Khadan Karmachari Sangh ("the union" in short) filed the statement of claim on behalf of the workman, Shri Eknath Mahadeo Thambe ("the workman" in short) and the management of Rajur Colliery of WCL. ("the party no. 1" in short) filed the written statement.

Subsequently, the reference was transferred to this Tribunal, for disposal in accordance with law.

3. The case of the workman as projected by the union in the statement of claim is that the workman was appointed as a General Mazdoor in 1982-83, but he was doing the job of tub repairing mazdoor and he also received the office orders dated 14-1-1987 and 11-10-1988, issued by the party no. 1, directing him to work as tub repairing mazdoor till further order, but without any intimation, he was demoted from his job and wages as per the office order dated 04-10-1989 by the party no. 1 and he was directed to work as general mazdoor category -I, for which, he sustained a great loss and was punished without any reason and in 1992, he took leave from 08-10-1992 to 15-10-1992, for the family planning operation of his wife and the party no. 1 issued a charge sheet against him on 18-2-1993, in connection with his remaining absent in 1992 and he submitted his reply to the charge sheet, but party no. 1 appointed enquiry officer and management representative by letter dated 14-3-1993 to conduct departmental enquiry against him, but party no.1 as per letter dated 31-3-1993, changed the enquiry and management representative without his knowledge. The further case of the workman is that whenever he was remaining absent, he was obtaining medical certificate of the doctor and attaching the same to his leave application and taking the signature of the manager and handing over the same to the attendance clerk and during the departmental enquiry, he had cleared about such facts and also stated before the enquiry officer about his difficulties in attending his duties and he was staying at patala village and from the said village he was coming daily to attend his duty at Rajur colliery, which is about 20 to 25 miles away from Patala village and though, he had appealed before the management for his transfer to Majri colliery, which is 2 miles away from his native place, management did not pay any heed to the same and though he requested the attendance clerk to give evidence on his behalf, the said clerk did not agree and told him that in case the management would ask for the records, he would produce the same before the enquiry officer and though

he verbally requested the enquiry officer to examine the attendance clerk, he refused for the same stating that the said clerk would be produced as a witness by the management representative but the management representative did not produce him as a witness and the management terminated his service by order dated 26-5-1993 but before termination of his services, party no.1 did not issue the show cause notice and also did not provide him all the papers of the departmental enquiry and the order of termination of his services is not justified. The workman has prayed for reinstatement in services with back wages and other consequential reliefs.

4. The party no.1 in its written statement has pleaded inter-alia that the workman was appointed as a casual loader on 17-3-85 and regularized as general mazdoor on 1-1-1989 and for regularization of employment, a workman has to complete 190 days (Wrongly typed as 140 days in W.S.) attendance in the underground and 240 days attendance on surface in one year and the workman from the very date of his appointment could not complete the minimum attendance required for regularization of his employment but he was regularized as general mazdoor w.e.f. 1-1-1989 and as the management observed increased tendency amongst the staff showing a very casual attitude towards attendance in their working, a serious view was taken in regard to the cases of absenteeism and under the provisions of the Standing Orders, absence from duty without permission and sanctioned leave has been defined as major misconduct and the proportionate punishment is dismissal from service and the workman worked for 151 days, 154 days, 192 days and 192 days on surface in years 1985, 1988, 1989 and 1990 respectively and 150 days, 203 days, 158 days, 82 days and 12 days in underground, in the years 1986, 1987, 1991, 1992 and up to April, 1993 respectively and therefore the workman was issued with a charge sheet dated 18-2-1993 and the workman in his reply dated 18-2-1993 explained that he remained absent some time due to his sickness and sometimes due to late arrival in the office to attend duty and he had applied for transfer which had not been consider by the management and he prayed for exonerating him from the charges and as the reply was not satisfactory, a departmental enquiry was held against him and the enquiry was conducted by observing the principles of the natural justice and during the enquiry the management produced the attendance registers for the period from 1985 to 1993, leave register and bonus register of the relevant period in respect of the workman and the workman also admitted about remaining absent from duty in his evidence and gave the explanation that such absence was due to his coming all the way from his native village and due to his illness, but the workman did not produce any document before the enquiry officer and the enquiry officer after hearing the parties, submitted his findings, holding the charges leveled against the workman to have been proved and there was nothing on

record before the enquiry officer, in support of the claim of the workman and the Disciplinary Authority after carefully scanning the entire proceedings came to the conclusion that the enquiry was proper, legal and by following the principles of natural justice and looking to the gravity of the misconduct and the past record of the workman, the Disciplinary Authority passed the order of termination of his service and the findings of the enquiry officer are not perverted and the punishment is not disproportionate to the charges proved against the workman.

5. As this is a case of termination of service of the workman after holding a departmental enquiry, the validity of departmental enquiry was considered as a preliminary issue and by order dated 10-4-1996, it was held that the enquiry was fair, proper and legal.

6. It is necessary to mention here that from 9-12-2002 neither the workman nor the union representative of the union appeared in the case to contest the same. Notices were issued by registered post with acknowledgement due to the union and so also to the workman in the address available on record, but the notices were returned back, without service with endorsement of postal department that the addressee was not found in the address. Hence, the case proceeded ex-parte against the workman.

7. At the time of argument, it was submitted by the learned advocate for the management that the serious misconduct of absenteeism was duly proved against the workman in a valid and proper departmental enquiry and the findings of the enquiry officer are based on the materials on record and the workman also admitted the charges of absenteeism and did not produce any evidence in support of his sickness and the other stands taken by him in his defence and as such, the findings cannot be said to be perverted and in view of the gross misconduct committed by the workman, the punishment imposed against him is just and proper and not shockingly disproportionate to the charges proved against workman. In support of such contentions, reliance was place on the decisions reported in AIR 2004 SC-4161 (Delhi Transport Corporation Vs. Sardar Singh and 2006 1 LLJ (SC)-206 (State of Rajasthan Vs. Mahammad Ayub Naz).

8. Perused the record including the statement of claim and written statement. The workman has not challenged the findings of the enquiry officer to be perverted or that the punishment imposed against him is shockingly disproportionate to the charges leveled against him, in his statement of claim. The charge of absenteeism was found to be proved against the workman in a just, proper and valid departmental enquiry. The misconduct of absenteeism is defined as a major misconduct in the provisions of Standing Order applicable to the workman. So the punishment of termination of the services of the workman cannot be said to be shockingly disproportionate

to the charges proved against him in the departmental enquiry. Hence, there is no scope to interfere with the punishment imposed against the workman. Hence, it is ordered;

ORDER

The action of the Sub-Area Manager Rajur Colliery of WCL., PO Rajur, Distt. Yeotmal in terminating the services of Shri Eknath Mahadeo Thambe Ex. Gen. Mazdoor Rajur Colliery is justified. The workman is not entitled to any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 12 अगस्त, 2011

का.आ. 2452.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एन. पी. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, सं. 1, मुम्बई के पंचाट (संदर्भ संख्या 8/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-8-2011 को प्राप्त हुआ था।

[सं. एल. 42012/211/2004-आईआर (सी-II)]

डी.एस.एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 12th August, 2011

S.O. 2452.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 8/2005) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of NPCL. and their workman, which was received by the Central Government on 12-8-2011.

[No. L-42012/211/2004-IR (C-II)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1

MUMBAI

JUSTICE G. S. SARRAF, Presiding Officer

REFERENCE No. CGIT-I/8 OF 2005

Parties : Employers in relation to the management of Nuclear Power Corporation of India Ltd.

And

Their Workmen

Appearances:

For the Management : Shri. Kantharia, Adv.
For the Workmen : Shri Vijay Vaidya, Adv.
Shri Umesh Nabar, Adv.

State : Maharashtra

Mumbai, dated the 1st day of August, 2011.

AWARD

1. This is a reference made by the Central Government in exercise of its powers under clause (d) of sub Section (1) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act). The terms of reference given in the schedule are as follows :

Whether the action of the management of National Power Corporation of India Limited, TAPS, Unit 1 and 2, Tarapur (Thane) in not reinstating/regularizing/absorbing the workmen Shri Amol D. Mahajan and 40 others (list enclosed) and not treating them as permanent and regular employees of the Corporation and depriving them of the benefits at par with permanent employees is legal and justified? If not, to what relief these workmen are entitled and from which date?

2. According to the statement of claim the workmen numbering about 41 have been in the intermittent employment of the first party at its Atomic Power Station at Tarapur for nearly a decade. The workmen filed a writ petition No.583 of 2002 seeking reinstatement/regularization/absorption and for consequential reliefs. Honourable Bombay High Court by order dt. 23-8-2004 directed the workmen to approach the Government for making reference of dispute under the Act. Accordingly the workmen raised their demand and the matter came to be referred to this Tribunal. It has been stated in the statement of claim that the first party employs permanent employees and several hundred employees on casual temporary basis through sham contractors. The employment of persons either through sham contractors or on temporary basis for years together is indeed a subterfuge to deprive the workmen of their legitimate rights of permanent employment. The first party has divided the area of the atomic power station in two categories namely: controlled area and non-controlled area. The controlled area is the area where the exposure to radio active material is at the highest while in the non-controlled area the radiation is at much lower level. The employees are shuffled from the controlled area to the non-controlled area to enable all the employees to work within the maximum tolerable limits of exposure. The workmen are exclusively employed in the controlled area exposing them to high dosages of radiation in short duration. In fact they are exposed to maximum permissible level of exposure per year. The Tarapur Atomic Power Station is a unique power station having boiling water type reactor consisting of two nuclear boilers which after certain period of operation needs refuelling. When refuelling is done power station is shut down for the purpose of refuelling and maintenance. The work is carried out between 3 to 4 months. The workmen work for almost 150 days in a year during the shut down period when the level of radiation is maximum.

The engagement of the workmen on purely temporary basis every year clearly establishes that there is sufficient work and the requirement is there through out. Since the workmen are exposed to the maximum tolerable limits of radiation in a short span of 45 to 150 days they are required to be treated as permanent and regular employees. It has, therefore, been prayed that the first party be directed to regularize and absorb the workmen or pay them wages through out the year as being paid to the permanent and regular employees.

3. According to the written statement filed by the first party the second party workmen were never appointed on contract basis and on this ground alone the claim of the workmen is liable to be rejected. It has been stated in the written statement that the Tarapur Atomic Power Station after certain period of operation needs refuelling. Whenever refuelling is done, the power station is shut down for this purpose. Along with refuelling maintenance work wherever required is also carried out. The shut down period during early eighties used to be between 2 to 3 months but due to advancement of technology the shut down period has now been reduced to 15 to 30 days. During such refuelling maintenance outages additional skilled and unskilled workers are required to ensure timely completion of the job. Sometimes the number of workers engaged during the shut down period exceeds 500. This is done to ensure that no worker suffers as a result of over exposure to radiation. The limits to which a temporary employee is exposed to radiation is half that of the one prescribed for a regular employee. As regards the maintenance work, it does not involve any exposure to radiation. In accordance with the laid down parameters by the Atomic Energy Regulatory Board a separate and independent Health Physics Unit has been created. This unit advises the first party regarding engagement of temporary man power during the shut down/maintenance period as per the international standard. On completion of each refuelling outage the additional man power/casual workers engaged by the first party are thoroughly examined by a special team constituted by the Bhabha Atomic Research Centre, Department of Atomic Energy, Govt. of India and complete record of examination of each worker is maintained so to as ensure that no worker receives more exposure than what is prescribed. The workers are also provided with a radiation monitoring device. According to the written statement the first party has their own regular employees on its rolls and whenever extra manpower is required during shut down period contracts are awarded to carry out specific job on the basis of competitive bidding to competent qualified contractors. The persons employed during the shut down activity are engaged for a period for 15 days to 30 days depending upon the requirement and not all of them are engaged for works in the controlled area. Even workers engaged in the controlled area are

rotated for other maintenance works as well during the shut down/maintenance period. The requirement of casual workers is for a specific period i.e. during refuelling/maintenance outages and, therefore, there is no question of regularization of their services on permanent basis. Unlike regular employees whose exposure limit to radiation is 3 Rem in a year the workmen are given extra protection by having their permissible exposure limit at 50% of what is prescribed for the regular employees as notified by the Atomic Energy Regulatory Board. Thus the workmen are not entitled to any relief.

4. Affidavits of Aslam Gawandi, Rajesh Arikar and Prajit Bari have been filed on behalf of the workmen who have been cross-examined by learned counsel for first party whereas the first party has filed affidavit of A.D. Kawale who has been cross-examined by learned counsel for the workmen.

5. Heard learned counsels Shri Vijay Vaidya and Umesh Nabar for the workmen and Shri Kantharia for the first party.

6. The Tarapur Atomic Power Station is having a boiling water-type reactor consisting inter alia of two nuclear boilers which after certain period of operations needs refuelling. Whenever refuelling is done the power station is shut down for this purpose. Along with refuelling maintenance work wherever required is also carried out. It appears from the pleadings that the shut down period initially during early eighties used to be between two to three months but on account of advancement in technology the shut down period has been reduced to 15-20 days. During such refuelling maintenance outages atomic power station requires extra man power to carry out additional jobs and for providing support to the regular staff. The second party workmen have been employed as casual workers on daily rates basis during shut down/refuelling outages and after completion of the shut down period their services have been dispensed with.

7. Even if the argument of learned counsel for the workmen that the workmen have worked from 15 to 184 days in a year is accepted still they cannot be given any relief under the provisions of the Act. The workmen are engaged during shut down period. Due to advancement in technology now the shut down period may not exceed a month. The exposure of the workmen to radiation is far less than the permissible limits. In these circumstances there is no law which authorises this Court to order absorption/regularization of the workmen.

8. In view of the above discussion I am of the opinion that the workmen are not entitled to any relief.

9. An award is passed accordingly.

JUSTICE G. S. SARRAF, Presiding Officer

नई दिल्ली, 12 अगस्त, 2011

का.आ. 2453.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नेशनल हाऊसिंग बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, दिल्ली के पंचाट (संदर्भ संख्या 284, 285/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-8-2011 को प्राप्त हुआ था।

[सं. एल-12011/63/2002-आईआर (बी-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 12th August, 2011

S.O. 2453.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 284/2011, 285/2011) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, New Delhi as shown in the Annexure in the industrial dispute between the management of National Housing Bank and their workmen, received by the Central Government on 12-8-2011.

[No. L-12011/63/2002-IR (B-I)]

RAMESH SINGH, Desk Officer

ANNEXURE I

**BEFORE DR. R. K. YADAV, PRESIDING OFFICER,
CENTRAL GOVT. INDUSTRIAL TRIBUNAL No. 1,
KARKARDOOMA COURTS COMPLEX : DELHI**

I.D. No. 284/2011

The General Secretary,
National Housing Bank Workers Union,
Plot No. 661, Gautam Puri,
Molar Bund Colony, New Delhi.

... Workman

Versus

The General Manager,
National Housing Bank,
Core-5-A, 3rd Floor,
Indian Habitat Centre,
Lodhi Road, New Delhi-03.

...Management

AWARD

Contract Labours, who were engaged by the Contractor, to discharge his responsibility in terms of contract entered into between him and the National Housing Bank (in short the Bank), approached High Court of Delhi with writ petition for regularization of their services with the Bank. It was claimed before the High Court that their services were engaged contrary to intendment of the

Contract Labour (Regulation and Abolition) Act, 1970 (in short the Contract Labour Act) and they may be declared employees of the Bank. The writ petition was dismissed, vide order dated 8-11-01, with liberty to the contract labours to approach to industrial adjudicator. They took recourse to law and an industrial dispute was referred to this Tribunal, vide order No. L-12011/63/2002-IR (B-I), New Delhi, dated 28-3-2003, with following terms :

“Whether the demand of the Contract Labours (as per list enclosed) engaged by the Contractor, M/s. SOMC Cavaliers Pvt. Ltd. in relation to the absorption/regularisation of their services in the establishment of National Housing Bank, New Delhi, is just, fair and legal? If yes, what relief these workmen are entitled and from which date?”

2. Claim statement was filed before the Tribunal, pleading therein that the Bank alleges them to be employees of the Contractor. According to the claimants, they approached the Bank for employment. Instead of employing them directly. The Bank had engaged them through a Contractor, namely, M/s. Premier Security Service. In 1995 the Contractor was changed. They were employed through the Contractor, with a view to avoid payment of full and proper wages. History of writ petition, being filed before High Court of Delhi, was also detailed. It was asserted that they are employees of the Bank and entitled for regularisation in the services of the Bank.

3. Claim was demurred by the Bank, pleading that the Bank entered into an agreement with the Contractor to provide security and housekeeping personnel. Relevant clauses of agreement dated 1-11-1995 were detailed in the written statement. Those clauses are reproduced, herein under for ready reference :

- “1. That the party of the second part shall provide required number of Security Personnel for the purpose of Security and Peons, Messengers and Safaiwalas at the premises of the party of the first part in such a way that security is looked after round the clock on the requisite number of floors in the building and provide sufficient number of personnel as agreed mutually for house keeping. The party of the second part will also provide one Security Supervisor to exercise control over the above mentioned security and house keeping personnel.
2. The personnel engaged for the services shall be the employees of the party of the second part and there will be no liability to this effect on party of the first part.
7. That the party of the second part will be responsible and will maintain all the statutory and non statutory obligations of laws applicable in Delhi under the Delhi Shops and Establishment

Act or any other related legislation and will provide the proof when required by the first party.

9. That the personnel engaged by the party of the second part will be under direct supervision and control of the party of the second part.
11. That the party of the second part shall maintain a proper record of their employees posted at the premises of party of the first part and shall maintain their attendance in the muster roll prescribed under law.
13. That the party of the second part shall be responsible for the discipline and conduct as well as for quality of the work done by the employees employed by them for fulfillment of this agreement.
16. That the party of the second part shall indemnify the party of the first part for any loss caused by the personnel provided by them in the discharge of their duty if it has been due to their negligence or connivance.
17. That the liability arising out of municipal, State, or Central Government Labour Laws and Regulations such as Payment of Wages Act, P.F. Act, Workmen Compensation Act, Contract Labour Act, Factories Act and Payment of Bonus Act; Minimum Wages Act etc. will be entirely of the party of the second part and party of the first part will not be responsible for any such liability.
19. That the tenure, of this agreement shall be for a period of one year effective from 1st day of November 1995 and on the expiry of the said period the contract will extended further with the consent of both the parties".

4. The Bank claimed that the claimant were employees of the Contractor. Contract agreement was genuine. There was no relationship of employer and employees between the parties. Their claim for regularisation is liable to be rejected.

5. An application was moved by the Bank for getting the Contractor impleaded as a party to the dispute. Claimants had not objected to that application. It was granted vide order dated 11-10-04 and the Contractor was impleaded as a party to the dispute.

6. On 29-11-05 a complaint under Section 33-A of Industrial Disputes Act, 1947 (in short the Act) was moved, pleading therein that name of Sh. Surender Pal Singh, who was directly concerned in the dispute, was struck off the rolls by the Bank. It was agitated that since his services were done away, during pendency of proceedings before this Tribunal, directions may be issued to the Bank to take him back on job, besides payment of all consequential

benefits, since the date of termination of his service. The application was repelled by the Bank, pleading that the claimant being so employee of the Contractor there was no occasion for the Bank to struck off his name from rolls. It was claimed that the complaint may be dismissed.

7. Sh. Jawahar Raja, authorised representative of the claimant, was heard at length. Sh. H. C. Anand, authorised representative of the bank, was also heard on the matter. I have given my carefully considerations to the arguments advanced at the bar and cautiously perused the record. My findings on controversy raised in the complaint are as follows :

8. Section 33 of the Act bars alteration in conditions of service "prejudicial" to the workman concerned in the dispute and punishment of discharge or dismissal when either is connected with pendentelite industrial dispute "save with the permission of the authorities before which the proceedings is pending" or where the discharge or dismissal is for any misconduct not connected with the pendentelite industrial dispute without the "approval of such authority". Prohibition contained in Section 33 of the Act is two fold. On one hand, they are designed to protect the workman concerned during the course of industrial conciliation, arbitration and adjudication, against employers' harassment and victimization, on account of their having raised the industrial dispute or their continuing the pending proceedings and on the other, they seek to maintain status quo by prescribing management conduct which may give rise to "fresh dispute" which further exacerbate the already strained relations between employer and the workman. Where industrial disputes are pendentelite before an authority mentioned in the section, it was thought necessary that such disputes should be conciliated or adjudicated upon by the authority in a peaceful atmosphere, undisturbed by any subsequent causes for bitterness or unpleasantness. To achieve this object, a ban has been imposed upon the employer exercising his common law, statutory or contractual right to terminate the services of his employees according to contract or the provisions of law governing such service. The ordinary right of the employer to alter the terms of his employees' services to their prejudice or to terminate their services under the general law governing contract of employment, has been banned subject to certain conditions. This ban, therefore, is designed to restrict the interference of the general rights and liabilities of the parties under the ordinary law within the limits truly necessary for accomplishing the object of those provisions. Anxiety to know about ban on the right of the employer, persuades me to reproduce the provisions of Section 33 of the Act thus:

"33. Conditions of service, etc., to remain unchanged under certain circumstances during pendency of proceedings.—(1) During the pendency of any

conciliation proceeding before a conciliation officer or a Board or of any proceeding before an arbitrator or a Labour Court or Tribunal or National Tribunal in respect of an industrial dispute, no employer shall,—

- (a) in regard to any matter connected with the dispute, alter, to the prejudice of the workmen concerned in such dispute, the conditions of service applicable to them immediately before the commencement of such proceeding; or
- (b) for any misconduct connected with the dispute, discharge or punish, whether by dismissal or otherwise, any workman concerned in such dispute. Save with the express permission in writing of the authority before which the proceeding is pending.

(2) During the pendency of any such proceeding in respect of an industrial dispute, the employer may, in accordance with standing orders applicable to a workman concerned in such dispute or, where there are no such standing orders in accordance with the terms of the contract, whether express or implied, between him and the workman—

- (a) alter, in regard to any matter not connected with the dispute, the conditions of service applicable to that workman immediately before the commencement of such proceeding; or
- (b) for any misconduct not connected with the dispute, discharge or punish, whether by dismissal or otherwise, that workman:

Provided that no such workman shall be discharged or dismissed, unless he has been paid wages for one month and an application has been made by the employer to the authority before which the proceeding is pending for approval of the action taken by the employer.

(3) Notwithstanding anything contained in sub-section (2), no employer shall, during the pendency of any such proceeding in respect of an industrial dispute, take any action against any protected workman concerned in such dispute—

- (a) by altering, to the prejudice of such protected workman, the conditions of service applicable to him immediately before the commencement of such proceeding; or
- (b) by discharging or punishing, whether any dismissal or otherwise, such protected workman, save with the express permission in writing of the authority before which the proceeding is pending.

Explanation.—For the purposes of this sub-section, a “protected workman”, in relation to an establishment,

means a workman who, being a member of the executive or other office bearer of a registered trade union connected with the establishment, is recognized as such in accordance with rules made in this behalf.

(4) In every establishment, the number of workmen to be recognized as protected workmen for the purposes of sub-section (3) shall be one per cent of the total number of workmen employed therein subject to a minimum number of five protected workmen and a maximum number of one hundred protected workmen and for the aforesaid purpose, the appropriate Government may make rules providing for the distribution of such protected workmen among various trade unions, if any, connected with the establishment and the manner in which the workmen may be chosen and recognized as protected workmen.

(5) Where an employer makes an application to a conciliation officer, Board, an arbitrator, a Labour Court, Tribunal or National Tribunal under the proviso to sub-section (2) for approval of the action taken by him, the authority concerned shall, without delay, hear such application and pass, within a period of three months from the date of receipt of such application, such order in relation thereto as it deems fit.

Provided that, where any such authority considers it necessary or expedient so to do, it may, for reasons to be recorded in writing, extend such period by such further period as it may think fit.

Provided further that no proceedings before any such authority shall lapse merely on the ground that any period specified in this sub-section had expired without such proceedings being completed.

9. As noted above sub-sections (1) and (2) are designed for different purposes, since sub-section (1) applies to the proposition when the employer wants to alter service conditions of the workman to his prejudice in regard to any matter connected with the dispute or for any misconduct connected with the dispute, in that situation he is obliged to seek prior permission in writing of the authority before whom the dispute is pending and in a case where the employer wants to alter service conditions of a workman in regard to a matter not connected with the dispute or for any misconduct not connected with the dispute, in that situation he is obliged to seek approval of the order under sub-section (2) of the aforesaid section. When an employer violates the provisions of sub-section (1) or sub-section (2) of Section 33 of the Act and instant remedy is provided to the workman by the provisions of Section 33A of the Act. In other words, where an employer has contravened the provisions of Section 33 the aggrieved workman has been given the option to make a complaint in writing, to the authority before which an industrial dispute is pending, with which the aggrieved workman is concerned. The complaint of such

contravention can be made not to the adjudicating authorities, but to the conciliatory authority also. If a complaint is made to a conciliatory authority, viz. a Conciliation Officer or a Board of Conciliation, clause (a) of Section 33 A of the act authorizes a Conciliation Officer or the Board to take such complaint into account in bringing about a settlement of the complained dispute. The Conciliation Officer or the Board is not empowered to adjudicate upon the dispute, which is the area of adjudicatory authorities. When a complaint is made to adjudicatory authority viz. Arbitrator, Labour Court, Tribunal or National Tribunal, it will adjudicate upon the dispute as if it is a dispute referred to or pending before it.

10. To attract the provisions of Section 33-A of the Act, following conditions precedent are to be satisfied.

1. that there should have been a contravention by the management of the provisions of Section 33 of the Act,
2. that the contravention should have been during the pendency of the proceedings before the conciliatory authorities or Labour Court, Tribunal or National Tribunal, as the case may be.
3. that the complainant should have been aggrieved by the contravention, and
4. that the application should have been made to the Labour Court, Tribunal or the National Tribunal in which original proceedings are pending.

11. Now it would be seen as to whether the claimant could satisfy above conditions. As facts go, services of the claimant were dispensed with by the Contractor. There can not be a dispute to this proposition. As is evident, the Contractor was not a party to the dispute, referred by appropriate Govt. for adjudication. Till order dated 11-10-04 was passed by the Tribunal, to impale the Contractor as a party, he was stranger to the proceedings pending before the Tribunal. Question arises as to whether the Bank was an employer within a meaning of Section 33 and 33-A of the Act. The Apex Court considered the term "employer" as used in Section 33 and 33-A of the Act, in "SKG" Sugar Ltd. [1959 (I) LLJ 420] and ruled that the employer can be no other than the employer with whom the workers had the industrial dispute and cannot mean merely an employer who discharges or punishes or who alters the conditions of services of the workmen concerned, if the definition of word "industrial dispute" is also read along with the provisions aforesaid sections. It was further ruled therein that the employer contemplated by sections 33 and 33-A of the Act must be identical employer, concerned in the industrial dispute, which is subject-matter of adjudication. If the identity of the employer happens to be merely a nominee or benamidar of the former or that on

the analogy of Section 18(3)(c) of the Act he comes within the description of "his heirs, successors or assigns", the award would be binding on him.

12. Admitted facts tell that the claimant was an employee of the Contractor and not of the Bank. The claimant challenges the agreement entered into between the Bank and the Contractor as sham or bogus. His claim is that he may be declared an employee of Bank, besides being regularised in the services of latter. On the date of the impugned action the Contractor was not a party to the dispute. It was not within his competence to seek permission/approval of Tribunal, in respect of the impugned action. These facts make it clear that the employer for the purpose of Section 33 and 33-A of the Act was the Contractor, who was not a party to dispute on the date of impugned action. Hence it cannot be said that the bank has contravened the provision of Section 33 of the Act.

13. As defined by Section 2(b) of the Contract Labour Act, the term "Contract labour" is a species of workman. A workman shall be so deemed when he is hired in or in connection with the work of an establishment by or through a contractor, with or without the knowledge of the principal employer. A workman may be hired: (1) in an establishment by the principal employer or by his agent with or without the knowledge of the principal employer; or (2) in connection with the work of an establishment by the principal employer through a contractor or by a contractor with or without the knowledge of the principal employer. Where a workman is hired in or in connection with the work of an establishment by the principal employer through a contractor, he merely acts as an agent so there will be master and servant relationship between the principal employer and the workman. But where a workman is hired in or in connection with the work of an establishment by a contractor, either because he has undertaken to produce a given result for the establishment or because he supplied workman for any work of the establishment, a question might arise whether the contract is a mere camouflage as in Hussainbhai Calicut's case [1978(4) SCC 257] and in Indian Petrochemicals Corporation's case [J.T.1999 (5) S.C. 339], etc. if the answer is in the affirmative, the workman will be in fact an employee of the principal employer; but if the answer is in the negative, the workman will be a contract labourer.

14. As pleaded by the bank, claimants were hired by the Contractor to produce the given result for the Bank. Such pleadings were also there before the High Court as well as the appropriate Government. Question referred for adjudication also confirms that they are employees of the Contractor. Till issue is answered in their favour, they cannot be termed as employees of the Bank. Therefore this facet also makes it clear that even while using the provisions of the Contract Labour Act, they can not be termed as employees of the Bank at this preliminary stage, when complaint under reference was field and entertained.

15. In view of these, the complaint is found not to be maintainable against the Bank. Post facto addition of the Contractor to the array of parties would not validate it. As held above, the Contractor was under no obligation to seek permission of the Tribunal under section 33(1)(b) of the Act, on the date when impugned action was taken by him, which fact attacks at the bottom of the action of the claimant. Complaint is rejected, being not maintainable on the date when filed. An award is accordingly passed. It be sent to the appropriate Government for publication.

Dated: 25-7-2011

DR. R. K. YADAV, Presiding Officer

ANNEXURE-II

**BEFORE DR. R. K. YADAV, PRESIDING OFFICER,
CENTRAL GOVT. INDUSTRIAL TRIBUNAL No. 1,
KARKARDOOMA COURTS COMPLEX : DELHI**

I.D. No. 285/2011

The General Secretary,
National Housing Bank Workers Union,
Plot No.661, Gautam Puri,
Molar Bund Colony, New Delhi.

...Workman

Versus

The General Manager,
National Housing Bank,
Core-5-A, 3rd Floor,
Indian Habitat Centre,
Lodhi Road, New Delhi-03,

...Management

AWARD

Contract Labours, who were engaged by the Contractor, to discharge his responsibility in terms of contract entered into between him and the National Housing Bank (in short the Bank), approached High Court of Delhi with writ petition for regularization of their services with the Bank. It was claimed before the High Court that their services were engaged contrary to intendment of the Contract Labour (Regulation and Abolition) Act, 1970 (in short the Contract Labour Act) and they may be declared employees of the Bank. The writ petition was dismissed, vide order dated 8-11-01, with liberty to the contract labours to approach the industrial adjudicator. They took recourse to law and an industrial dispute was referred to this Tribunal, vide order No.L-12011/63/2002-IR (B-1), New Delhi, dated 28-3-2003, with following terms:

“Whether the demand of the Contract Labours (as per list enclosed) engaged by the Contractor, M/s. SOMC Cavaliers Pvt. Ltd. in relation to the absorption/regularisation of their services in the

establishment of National Housing Bank, New Delhi, is just, fair and legal? If yes, what relief these workmen are entitled and from which date?”

2. Claim statement was filed before the Tribunal, pleading therein that the Bank alleges them to be employees of the Contractor. According to the claimants, they approached the Bank for employment. Instead of employing them directly, the Bank had engaged them through a Contractor, namely, M/s. Premier Security Service. In 1995 the Contractor was changed. They were employed through the Contractor, with a view to avoid payment of full and proper wages. History of writ petition, being filed before High Court of Delhi, was also detailed. It was asserted that they are employees of the Bank and entitled for regularisation in the services of the Bank.

3. Claim was demurred by the Bank, pleading that the Bank entered into an agreement with the Contractor to provide security and housekeeping personnel. Relevant clauses of agreement dated 1-11-1995 were detailed in the written statement. Those clauses are reproduced, herein under for ready reference:

- “1. That the party of the second part shall provide required number of Security Personnel for the purpose of Security and Peons, Messengers and Safaiwalas at the premises of the party of the first part in such a way that security is looked after round the clock on the requisite number of floors in the building and provide sufficient number of personnel as agreed mutually for house keeping. The party of the second part will also provide one Security Supervisor to exercise control over the above mentioned security and house keeping personnel.
2. The personnel engaged for the services shall be the employees of the party of the second part and there will be no liability to this effect on party of the first part.
7. That the party of the second part will be responsible and will maintain all the statutory and non statutory obligations of laws applicable in Delhi under the Delhi Shops and Establishment Act or any other related legislation and will provide the proof when required by the first party.
9. That the personnel engaged by the party of the second part will be under direct supervision and control of the party of the second part.
11. That the party of the second part shall maintain a proper record of their employees posted at the premises of party of the first part and shall

maintain their attendance in the muster roll prescribed under law.

13. That the party of the second part shall be responsible for the discipline and conduct as well as for quality of the work done by the employees employed by them for fulfilment of this agreement.
16. That the party of the second part shall indemnify the party of the first part for any loss caused by the personnel provided by them in the discharge of their duty if it has been due to their negligence or connivance.
17. That the liability arising out of municipal, State, or Central Government Labour Laws and Regulations such as Payment of Wages Act, P.F. Act, Workmen Compensation Act, Contract Labour Act, Factories Act and Payment of Bonus Act, Minimum Wages Act etc. will be entirely of the party of the second part and party of the first part will not be responsible for any such liability.
19. That the tenure of this agreement shall be for a period of one year effective from 15th day of November 1995 and on the expiry of the said period the contract will extended further with the consent of both the parties".

4. The Bank claimed that the claimants were employees of the Contractor. Contract agreement was genuine. There was no relationship of employer and employees between the parties. Their claim for regularisation is liable to be rejected.

5. An application was moved by the Bank for getting the Contractor impleaded as a party to the dispute. Claimants had not objected to that application. It was granted vide order dated 11-10-04 and the Contractor was impleaded as a party to the dispute.

6. On 26-06-03 a complaint under section 33-A of Industrial Disputes Act, 1947 (in short the Act) was moved, pleading therein that name of Sh. Sunil Chopra, Sh. Rajeev Kumar, Sh. S. K. Jha and Sh. Shyam Lal, who were directly concerned in the dispute, were struck off the rolls by the Bank. It were agitated that since their services were done away, during pendency of proceedings before this Tribunal, directions may be issued to the Bank to take them back on job, besides payment of all consequential benefits, since the date of termination of their services. The application was repelled by the Bank, pleading that the claimants being employees of the Contractor there was no occasion for the Bank to struck off their names from rolls. It was claimed that the complaint may be dismissed.

7. Sh. Jawahar Raja, authorised representative of the claimants, was heard at length. Sh. H. C. Anand,

authorised representative of the bank, was also heard on the matter. I have given my carefully considerations to the arguments advanced at the bar and cautiously perused the record. My findings on controversy raised in the complaint are as follows :

8. Section 33 of the Act bars alteration in conditions of service "prejudicial" to the workman concerned in the dispute and punishment of discharge or dismissal when either is connected with pendentelite industrial dispute "save with the permission of the authorities before which the proceedings is pending" or where the discharge or dismissal is for any misconduct not connected with the pendentelite industrial dispute without the "approval of such authority". Prohibition contained in section 33 of the Act is two fold. On one hand, they are designed to protect the workman concerned during the course of industrial conciliation, arbitration and adjudication, against employers' harassment and victimization, on account of their having raised the industrial dispute or their continuing the pending proceedings and on the other, they seek to maintain status quo by prescribing management conduct which may give rise to "fresh dispute" which further exacerbate the already strained relations between employer and the workman. Where industrial disputes are pendentelite before an authority mentioned in the section, it was thought necessary that such disputes should be conciliated or adjudicated upon by the authority in a peaceful atmosphere, undisturbed by any subsequent causes for bitterness or unpleasantness. To achieve this object, a ban has been imposed upon the employer exercising his common law, statutory or contractual right to terminate the services of his employees according to contract or the provisions of law governing such service. The ordinary right of the employer to alter the terms of his employees' services to their prejudice or to terminate their services under the general law governing contract of employment, has been banned subject to certain conditions. This ban, therefore, is designed to restrict the interference of the general rights and liabilities of the parties under the ordinary law within the limits truly necessary for accomplishing the object of those provisions. Anxiety to know about ban on the right of the employer, persuades me to reproduce the provisions of section 33 of the Act thus :

"33. Conditions of service, etc., to remain unchanged under certain circumstances during pendency of proceedings. -(1) During the pendency of any conciliation proceeding before a conciliation officer or a Board or of any proceeding before an arbitrator or a Labour Court or Tribunal or National Tribunal in respect of an industrial dispute, no employer shall,—

- (a) in regard to any matter connected with the dispute, alter, to the prejudice of the workmen concerned in such dispute, the conditions of

service applicable to them immediately before the commencement of such proceeding; or

- (b) for any misconduct connected with the dispute, discharge or punish, whether by dismissal or otherwise, any workman concerned in such dispute. Save with the express permission in writing of the authority before which the proceeding is pending.

(2) During the pendency of any such proceeding in respect of an industrial dispute, the employer may, in accordance with standing orders applicable to a workman concerned in such dispute or, where there are no such standing orders, in accordance with the terms of the contract, whether express or implied, between him and the workman—

- (a) alter, in regard to any matter not connected with the dispute, the conditions of service applicable to that workman immediately before the commencement of such proceeding; or
- (b) for any misconduct not connected with the dispute, discharge or punish, whether by dismissal or otherwise, that workman:

Provided that no such workman shall be discharged or dismissed, unless he has been paid wages for one month and an application has been made by the employer to the authority before which the proceeding is pending for approval of the action taken by the employer.

(3) Notwithstanding anything contained in sub-section (2), no employer shall, during the pendency of any such proceeding in respect of an industrial dispute, take any action against any protected workman concerned in such dispute —

- (a) by altering, to the prejudice of such protected workman, the conditions of service applicable to him immediately before the commencement of such proceeding; or
- (b) by discharging or punishing, whether any dismissal or otherwise, such protected workman, save with the express permission in writing of the authority before which the proceeding is pending.

Explanation. - For the purposes of this sub-section, a "protected workman", in relation to an establishment, means a workman who, being a member of the executive or other office bearer of a registered trade union connected with the establishment, is recognized as such in accordance with rules made in this behalf.

(4) In every establishment, the number of workmen to be recognized as protected workmen for the purposes of sub-section (3) shall be one per cent of the total number of workmen employed therein subject to a minimum number

of five protected workmen and a maximum number of one hundred protected workmen and for the aforesaid purpose, the appropriate Government may make rules providing for the distribution of such protected workmen among various trade unions, if any, connected with the establishment and the manner in which the workmen may be chosen and recognized as protected workmen.

(5) Where an employer makes an application to a conciliation officer, Board, an arbitrator, a Labour Court, Tribunal or National Tribunal under the proviso to sub-section (2) for approval of the action taken by him, the authority concerned shall, without delay, hear such application and pass, within a period of three months from the date of receipt of such application, such order in relation thereto as it deems fit.

Provided that where any such authority considers it necessary or expedient so to do, it may, for reasons to be recorded in writing, extend such period by such further period as it may think fit.

Provided further that no proceedings before any such authority shall lapse merely on the ground that any period specified in this sub-section had expired without such proceedings being completed.

9. As noted above sub-sections (1) and (2) are designed for different purposes, since sub-section (1) applies to the proposition when the employer wants to alter service conditions of the workman to his prejudice in regard to any matter connected with the dispute or for any misconduct connected with the dispute, in that situation he is obliged to seek prior permission in writing of the authority before whom the dispute is pending and in a case where the employer wants to alter service conditions of a workman in regard to a matter not connected with the dispute or for any misconduct not connected with the dispute, in that situation he is obliged to seek approval of the order under sub-section (2) of the aforesaid section. When an employer violates the provisions of sub-section (1) or sub-section (2) of Section 33 of the Act, an instant remedy is provided to the workman by the provisions of Section 33A of the Act. In other words, where an employer has contravened the provisions of section 33, the aggrieved workman has been given the option to make a complaint in writing, to the authority before which an industrial dispute is pending, with which the aggrieved workman is concerned. The complaint of such contravention can be made not to the adjudicating authorities, but to the conciliatory authority also. If a complaint is made to a conciliatory authority, viz. a Conciliation Officer or a Board of Conciliation, clause (a) of section 33 A of the act authorizes a Conciliation Officer or the Board to take such complaint into account in bringing about a settlement of the complained dispute. The Conciliation Officer or the Board is not empowered to adjudicate upon the dispute, which is the area of

adjudicatory authorities. When a complaint is made to adjudicatory authority viz. Arbitrator, labour Court, Tribunal or National Tribunal, it will adjudicate upon the dispute as if it is a dispute referred to or pending before it.

10. To attract the provisions of section 33-A of the Act, following conditions precedent are to be satisfied.

1. that there should have been a contravention by the management of the provisions of section 33 of the Act,
2. that the contravention should have been during the pendency of the proceedings before the conciliatory authorities or labour Court, Tribunal or National Tribunal, as the case may be.
3. that the complainant should have been aggrieved by the contravention, and
4. that the application should have been made to the Labour Court, Tribunal or the National Tribunal in which original proceedings are pending.

11. Now it would be seen as to whether the claimants could satisfy above conditions. As facts go, services of the claimants were dispensed with by the Contractor. There can not be a dispute to this proposition. As is evident, the Contractor was not a party to the dispute, referred by appropriate Govt. for adjudication. Till order dated 11-10-04 was passed by the Tribunal, to impale the Contractor as a party, he was stranger to the proceedings pending before the Tribunal. Question arises as to whether the Bank was an employer within a meaning of section 33 and 33-A of the Act. The Apex Court considered the term "employer" as used in section 33 and 33-A of the Act, in "SKG Sugar Ltd. (1959 (1) LLJ 420) and ruled that the employer can be no other than the employer with whom the workers had the industrial dispute and cannot mean merely an employer who discharges or punishes or who alters the conditions of services of the workmen concerned, if the definition of word "industrial dispute" is also read alongwith the provisions aforesaid section. It was further ruled therein that the employer contemplated by sections 33 and 33-A of the Act must be identical employer, concerned in the industrial dispute, which is subject matter of adjudication. If the identity of the employer happens to be merely a nominee or benamidar of the former or that on the analogy of section 18(3)(c) of the Act he comes within the description of "his heirs, successors or assigns", the award would be binding on him.

12. Admitted facts tell that the claimants were an employees of the Contractor and not of the Bank. The claimants challenges the agreement entered into between the Bank, and the Contractor as sham or bogus. Their claim is that they may be declared employees of Bank,

besides being regularised in the services of latter. On the date of the impugned action the Contractor was not a party to the dispute. It was not within his competence to seek permission/approval of Tribunal, in respect of the impugned action. These facts make it clear that the employer for the purpose of section 33 and 33-A of the Act was the Contractor, who was not a party to dispute on the date of impugned action. Hence it cannot be said that the bank has contravened the provision of section 33 of the Act.

13. As defined by section 2(b) of the Contract Labour Act, the term "Contract labour" is a species of workman. A workman shall be so deemed when he is hired in or in connection with the work of an establishment by or through a contractor, with or without the knowledge of the principal employer. A workman may be hired: (1) in an establishment by the principal employer or by his agent with or without the knowledge of the principal employer; or (2) in connection with the work of an establishment by the principal employer through a contractor or by a contractor with or without the knowledge of the principal employer. Where a workman is hired in or in connection with the work of an establishment by the principal employer through a contractor, he merely acts as an agent so there will be master and servant relationship between the principal employer and the workman. But where a workman is hired in or in connection with the work of an establishment by a contractor, either because he has undertaken to produce a given result for the establishment or because he supplied workman for any work of the establishment, a question might arise whether the contract is a mere camouflage as in *Hussainbhai Calicut's case* (1978(4) SCC 257) and in *Indian Petrochemicals Corporation's case* (J T.1999 (5) S.C. 339), etc. if the answer is in the affirmative, the workman will be in fact an employee of the principal employer; but if the answer is in the negative, the workman will be a contract labourer.

14. As pleaded by the bank, claimants were hired by the Contractor to produce the given result for the Bank. Such pleadings were also there before the High Court as well as the appropriate Government. Question referred for adjudication also confirms that they are employees of the Contractor. Till issue is answered in their favour, they cannot be termed as employees of the Bank. Therefore this facet also makes it clear that even while using the provisions of the Contract Labour Act, they cannot be termed as employees of the Bank at this preliminary stage, when complaint under reference was filed and entertained.

15. In view of these, the complaint is found not to be maintainable against the Bank. Post facto addition of the Contractor to the array of parties would not validate it. As held above, the Contractor was under no obligation to seek permission of the Tribunal under section 33(1)(b) of the Act, On the date when impugned action was taken by

him, which fact attacks at the bottom of the action of the claimants. Complaint is rejected, being not maintainable on the date when filed, An award is, accordingly, passed. It be sent to the appropriate Government for publication.

Dr. R. K. YADAV, Presiding Officer

नई दिल्ली, 16 अगस्त, 2011

का.आ. 2454.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसराण में, केन्द्रीय सरकार बैलाडीला आयरन ओर प्रोजेक्ट बस्तर, मध्य प्रदेश के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 159/96) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-8-2011 को प्राप्त हुआ था।

[सं. एल-26012/3/96-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 16th August, 2011

S.O. 2454.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 159/96) of the Central Government Industrial Tribunal /Labour Court, Jabalpur, now as shown in the Annexure in the industrial dispute between the employers in relation to the management of Bailadila Iron Ore Project Bastar (M P) and their workman, which was received by the Central Government on 16-8-2011.

[No. L-26012/3/96-IR (M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/159/96

Presiding Officer : Shri Mohd. Shakir Hasan

The Secretary,
Metal Mine Workers Union (INTUC),
Post Kirandul
Distt. Bastar (MP)

...Workman

Versus

General Manager,
Bailadila Iron Ore Project,
Deposit No. 14, Post Kirandul,
Distt. Bastar (MP)

...Management

AWARD

Passed on this 10th day of May 2011

1. The Government of India, Ministry of Labour vide its Notification No.L-26012/3/96-IR(Vividh) dated 14-8-96 has referred the following dispute for adjudication by this tribunal:—

“ Whether the action of the management of NMDC Ltd., BIOP Deposit No.14, Kirandul Distt. Bastar (MP) in not extending IOD benefits to Shri K. Suryanarayana, Locoman, for the period 27-11-92, 28-11-92 and from 2-12-92 to 28-1-93 is justified? If not, to what relief is the workman entitled?”

2. The case of the Union/workman in short is that the workman Shri K. Suryanarayan was working as Asstt. Locoman. He met with an accident on 20-6-92 causing injury of Wedge Companion Fracture. He was admitted at Project Hospital till 21-7-92 when he was referred to K. G. Hospital, Visakhapatnam for further treatment on 22-7-92. He remained there from 22-7-92 to 8-11-92 for treatment and thereafter resumed his duty on 9-11-92. Again he had complaint of pain in the said injury and was again referred to K.G. Hospital, Vishakapatnam and was admitted there from 27-11-92 to 28-1-93 but the management denied the benefits of Injury on duty (in short IOD) as per rules. It is submitted that the said benefit of IOD be awarded to the workman.

3. The management appeared and filed Written Statement in the case. The case of the management, inter alia is that admittedly the workman was Asstt. Locoman when he met with an accident. and was referred to K. G. Hospital, Vishakapatnam. Finally he resumed duty w.e.f. 10-11-92. The period from 19-6-92 to 9-11-92 was treated as IOD including journey period to Vishakapatnam. Subsequently he was referred to K.G.Hospital, Vishakapatnam for checkup. He availed treatment as an outdoor patient at K.G. Hospital from 27-11-92 to 23-1-93 and was declared fit to resume duties w.e.f. 24-1-93 by K.G. Hospital. His absence from duty from 27-11-92 to 28-11-92 and from 2-12-92 to 28-1-93 were not treated as IOD by the management. However 3 days i.e. 29-11-92 to 1-12-92 the journey period for 2 days and one day for consultation at K.G. Hospital at Vishakapatnam were treated as IOD. It is stated that he got treatment for his eye ailment and under went cataract operation without medical reference of the Project Hospital. The said eye operation was without sanction and without the permission of the Competent Authority. The period i.e. 27-11-92, 28-11-92 and 2-12-92 to 28-1-93 cannot be treated as IOD due to the fact that he was not required to stay at Vishakapatnam for eye treatment. It is submitted that the management is justified for not extending IOD benefits to the aforesaid period to the workman.

4. On the basis of the pleadings of the parties, the following issues are framed—

- I. Whether the action of the management for not extending IOD benefits to the workman for the period 27-11-92, 28-11-92 and 2-12-92 to 28-1-93 is justified?
- II. To what relief the workman is entitled?

5. The Union/workman appeared in the case and filed statement of claim. Thereafter they became absent since 2-8-2004. Lastly the then Tribunal proceeded ex parte against the Union/workman on 14-2-2005.

6. Issue No. I

To prove the case, the management has examined two witnesses. The management witness Shri I.S. Babji has come to support the case of the management. He has stated that the treatment availed by him in respect of his eye ailment was without any sanction, medical reference by the Project Hospital and permission of the Competent Authority. He has further stated that the period taken for treatment of eye ailment cannot be taken as the period of injury on duty. His evidence is un rebutted. There is no reason to disbelieve his evidence. Another management witness Shri Pardeep Saxena is presently working as Senior Manager (P) at BIOM, Kirandul complex. He has similarly corroborated the evidence of Shri I.S. Babji. He has also supported that the period claimed as IOD was for treatment of eye ailment. The workman was not referred for eye ailment. His evidence is also un rebutted. Thus the evidence of the witnesses prove the fact that the period claimed as IOD was not for treatment of the ailment referred by the Competent Authority. It is clear that the workman is not entitled to get the benefits of the alleged periods as Injury on duty. This issue is decided in favour of the management and against the workman.

7. Issue No. II

On the basis of the discussion made above, it is evident that the periods taken in the treatment of eye ailment was not referred by the Competent Authority and therefore he is not entitled to any relief. The reference is accordingly answered.

8. In the result, the award is passed without any order to costs.

9. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 16 अगस्त, 2011

का.आ. 2455.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार वेस्टर्न इण्डिया

शिपयार्ड लिमिटेड, गोवा के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, मुंबई के पंचाट (संदर्भ संख्या 64/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-8-2011 को प्राप्त हुआ था।

[सं. एल-36012/2/2002-आईआर (एम)]

जोहन तोपनो, अवसर सचिव

New Delhi, the 16th August, 2011

S.O. 2455.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 64/2000) of the Central Government Industrial Tribunal /Labour Court No. 2, Mumbai now as shown in the Annexure in the industrial dispute between the employers in relation to the management of M/s. Western India Shipyard Ltd. (Goa) and their workman, which was received by the Central Government on 16-8-2011.

[No. I-36012/2/2002-IR (M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. 2, MUMBAI (CAMP : GOA)

Present : K. B. Katake, Presiding Officer

Reference No. CGIT-2/64 of 2002

Employer in relation to the Management of
M/s. Western India Shipyard Ltd.

The Managing Director,
M/s. Western India Shipyard Ltd.
Mormugao Harbour, Mormugao,
Goa-403 803.

AND

Their Workman

The President,
Goa Trade & Commercial Workers Union,
Velho's Building, 2nd floor,
Opp. Municipal Garden,
Panjim, Goa-403 001.

APPEARANCES:

For the Employer : Mr. M.S. Bandodkar Advocate.

For the Workman : Mr. Suhaas Naik Advocate.

Camp : Goa, dated the 22nd March 2011

AWARD

The Government of India, Ministry of Labour & Employment by its Order No. L-36012-2-2002-IR (M), dated

5-8-2002 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following industrial dispute to this Tribunal for adjudication:

“Whether Shri R. M. Prasad Singh is a workman under the provision of the Industrial Disputes Act 1947? If so, whether the action of the management of M/s. Western India Shipyard Ltd., Goa in terminating the services of Sh. R. M. Prasad Singh w.e.f. 9-8-2002 is legal and justified? If not, to what relief Sh. R. M. Prasad Singh is entitled for?”

2. Today the parties jointly filed a Memorandum of Settlement duly signed by the representatives of the parties and the workman and prayed for disposal of the reference.

3. It may be stated that in compliance with terms of settlement the workman was paid Rs. 31,431 by cheque drawn on HDFC Bank. He has acknowledged the receipt.

4. The Memorandum of Settlement Ex-60 shall form part of record of the case.

5. In view of the amicable settlement, the reference stands disposed. Hence the order:

ORDER

Reference is disposed of as settled.

Date : 22-3-2011

Camp: Goa

K. B. KATAKE, Presiding Officer

नई दिल्ली, 16 अगस्त, 2011

का.आ. 2456.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसराण में, केन्द्रीय सरकार साउथ इंडिया माइन्स एण्ड मिनरल्स लिमिटेड तिरुनावल्ली के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय चेन्नई के पंचाट (संदर्भ संख्या 72/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-8-2011 को प्राप्त हुआ था।

[सं. एल-29011/8/2007-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 16th August, 2011

S.O. 2456.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 72/2007) of the Central Government Industrial Tribunal/Labour Court Chennai now as shown in the Annexure in the industrial dispute between the employers in relation to the management of South India Mines and Minerals Ltd.

Partner Nellai Transport (Tirunelveli) and their workman, which was received by the Central Government on 16-8-2011.

[No. L-29011/8/2007-IR (M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Tuesday, the 3rd May, 2011

Present : A. N. Janardanan, Presiding Officer

Industrial Dispute No. 72/2007

(In the matter of the dispute for adjudication under clause(d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the South India Mines and Minerals Industries Ltd. and their workman)

Between

The General Secretary,
India Cement Employees Union,
298/D Thalaiyuthu,
Sankar Nagar,
Tirunelveli-627357

...1st Party/Petitioner

And

1. The Executive Director,
South India Mines & Minerals Industries Ltd.,
315, Narayana Nagar,
Sankar Nagar PO
Talaiyuthu RS
Tirunelveli -627357

...2nd Party /1st Respondent

2. The Partner Nellai Transport,
363 Quarry Road,
Sankar Nagar,
Tirunelveli

...2nd Party 2nd Respondent

APPEARANCE:

For the 1st party/
Petitioner Union

Sri S. Vaidyanathan.
Advocate

For the 1st & 2nd Party/
Management

Sri S. Sadagopan.
Advocate

AWARD

The Central Government, Ministry of Labour vide its Order No. L-29011/8/2007-IR(M) dated 01-11-2007

referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

"Whether the claim of India Cements Employees Union (INTUC) against the management of Nellai Transports, Transporter of Lime Stones for South India Mines and Mineral Industries Ltd., a Lime Stone Lease Holder at Tirunelveli (SIMMINDS Ltd.), for regularization of the drivers and the helper (as per the names below) is legal and justified? If so, to what relief the workmen are entitled to?" 1. S/Sh M. S. Natarajan, Driver, 2. P Paramasivam, Driver, 3. S. Murugan, Driver, 4. S. Rajagopal, Driver, 5. Oorkavalan, Helper.

2. After the receipt of Industrial Dispute this Tribunal has numbered it as ID 72/2007 and issued notice to both sides. Both sides entered appearance through their respective counsel. First Party filed Claim Statement. Pending filing Counter Statement the matter was stayed by the High Court of Madras as per order dated 31-3-2008 in MP No. 2/2008 in WP No. 7753/2008.

3. While the matter stood posted from time to time for stay report, a memo was filed on behalf of the 1st Party reporting the Industrial Dispute to have been settled and not pressing the matter simultaneously praying for dismissal of the same as being withdrawn.

4. The 2nd Party - 1st and 2nd Respondents appeared in person on 31-12-2010 and filed a memo on the same terms as that of the petitioner and prayed for permission to withdraw the ID.

5. Awaiting records called for, under a requisition sent to the High Court of Madras, the ID stood further posted from time to time till this day and records now having been received the matter is being disposed of as prayed for.

6. The short recital in the Claim Statement is as follows:

The Petitioner-Registered Union espouses the cause of the 5 workmen, its members. The petitioner proceeds as if the 1st Respondent is the Principal Employer and 2nd Respondent is a Contractor, which in fact is part and parcel of 1st Respondent, which does entire administration, work allotment, control, decision making and supervision. The concerned employees who have worked for several years continuously have not been conferred permanent status or regularized in service. In the ID raised the Management did not participate. The workmen have completed 480 days of continuous service within a period of 24 calendar months and as such they are deemed to have attained permanent status as per Tamil

Nadu Industrial Establishment (Conferment of Permanent Status to Workmen) Act, 1981 applicable to the Respondents. Continuing an employee without making him permanent for years is an unfair labour practice as per Clause-10 of the Vth Schedule of the ID Act apart from colourable exercise of powers and victimization. Hence the claim.

7. Points for consideration are :

- (i) Whether the claim for regularization of the Drivers and the Helper as per names given in the schedule is legal and justified?
- (ii) To what relief the concerned workmen are entitled?

8. No evidence was adduced by either side in the matter.

Points (i) & (ii)

9. While the matter stood for filing Counter Statement after filing of the Claim Statement on behalf of the petitioner association espousing the cause of their 5 workmen members, the further proceedings in the matter stood stayed by the High Court of Madras. Subsequently both parties by filing memos reported the matter to have been settled praying for dismissal of the ID as being withdrawn. As to how and in what manner the dispute stands settled has not been disclosed before this Tribunal. The fact being so the question does not survive for consideration as to whether the claim for regularization of the workmen, 5 in number is whether legal and justified. In terms of the request on either side the ID is dismissed as permission is accorded for withdrawing the same.

10. The reference is answered accordingly.

(Dictated to the P. A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 3rd May, 2011)

A. N. JANARDANAN, Presiding Officer

Witnesses Examined :

For the 1st Party/Petitioner	:	None
For the 2nd Party/1st Management	:	None

Documents Marked :

On the Petitioner's side

Ex. No.	Date	Description
	N/A	

On the Management's side

Ex. No.	Date	Description
	N/A	

नई दिल्ली, 16 अगस्त, 2011

का.आ. 2457.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार हिन्दुस्तान पेट्रोलियम कारपोरेशन लिमिटेड, नागपुर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 85/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-8-2011 को प्राप्त हुआ था।

[सं. एल-30012/43/93-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 16th August, 2011

S.O. 2457.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.85/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur now as shown in the Annexure in the industrial dispute between the employers in relation to the management of Hindustan Petroleum Corporation Ltd., Nagpur and their workman, which was received by the Central Government on 16-8-2011.

[No. L-30012/43/93-IR (M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

**BEFORE SHRI J. P. CHAND, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR**

Case No. CGIT/NGP/85/2003

Date: 12-05-2011.

Party No. 1 : The Manager,
P.O.L. Depot, Hindusthan Petroleum
Corporation Ltd., Khapri, Wardha Road,
Nagpur.

Versus

Party No. 2 : Shri Kailash D. Rajoriya,
R/o Lumbini Nagar Mankapur, Near
Ramand Mome, Chhindwara Road,
Nagpur.

AWARD

(Dated: 12th May, 2011)

This reference had been made by the Central Government in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) (here-in-after referred to as "the Act") for adjudication of the industrial dispute between the employers in relation to the management of Hindustan Petroleum Corporation Limited

(in short "HPCL") and their workman, Shri Kailash D. Rajoriya (here-in-after referred to as "the workman") to CGIT, Jabalpur as per letter No.L-30012/43/93-IR(Misc)/IR (Coal-I) dated 24-5-1994, with the following schedule :—

"Whether the action of the management of Hindustan Petroleum Corporation Ltd. in relation to their POL Depot, Khapari, Nagpur in discharging the services of Shri Kailash D. Rajoriya, General Workman w.e.f. 24-1-90 is justified? If not, what relief the workman is entitled?"

2. Subsequently, the case was transferred to the Court of CGIT, Nagpur for disposal according to the law.

3. On receipt of the reference, the workman and the management of HPCL were noticed to file the statement of claim and written statement respectively and accordingly the statement of claim and written statement were filed.

In his statement of claim, it is pleaded by the workman that he was appointed as a Tank Truck Helper (general workman) w.e.f. 21-1-1983 and he was confirmed vide order dt.19-10-1984 with retrospective effect from 21-7-1983 in the grade H-01 at Khapri P.O.L. and his entire service period was clean and unblemished and his appointment was made through Employment Exchange and before appointment, he was called for, for interview on 15-4-1982 and his appointment was made after perusing his testimonials and selection in the interview and he was asked to produce his school leaving certificate and so also caste certificate and he belongs to "Mana Caste", which comes under Scheduled Tribe community and at the time of the interview, he had produced the school leaving certificate of Tidke Vidyalaya, Nagpur, through which, he had appeared in the SSC examination, the certificate of Maharashtra State Board of Secondary, Higher Secondary Education and the caste certificate and in the year 1986, the Depot Superintendent, Shri Mathur directed him to produce the original caste certificate and as he could not able to trace out the original caste certificate, the Xerox copy of which was produced at the time of the interview, he applied for the duplicate of the said caste certificate to the Tahasildar and tried his best to obtain the duplicate caste certificate issued in Revenue Case No.213, but he was informed that the records of the year 1978 were not available, so he was constrained to apply for a fresh caste certificate and alongwith his such application, he submitted the school leaving certificate of Vijay Bharati Kanya Shala, Nagpur, where he had taken education from 10-6-1964 to 1-5-1968 and read upto 4th standard, to show his caste as 'Mana' and on the basis of the said school leaving certificate, the Executive Magistrate, Nagpur issued a caste certificate to him in Revenue Case No.48 of 1986 and he submitted the said caste certificate before the management and till February, 1987, he did not receive any communication from the authority and some time in February, 1987, he was called

for to the office of the District Magistrate, Nagpur for verification of his caste and he gave the details to the District Magistrate on 13-2-1987 and the District Magistrate did not communicate any order or information thereon, to him. The further case of the workman is that surprisingly he received a charge sheet dated 28-3-1987 issued by the Senior Regional Manager, Bhopal containing the charges of subversive of discipline, dishonesty, furnishing false information, breach of clause 10(b) of the terms of the appointment to the corporation, alleging that he produced false information in regard to his age, qualification and caste, for obtaining employment and the charges levelled against him were totally false and he submitted his explanation to the charge sheet on 8-4-1987, denying the charges and management being not satisfied with the reply, initiated the departmental enquiry and communicated him, the appointment of Shri S.C.Nanda, as the Inquiry Officer and the Inquiry Officer vide his letter dated 14-9-1987, intimated him the first date of the enquiry as 7-10-1987 and the first sitting of the enquiry was held on 7-10-1987 and in that enquiry, the charge sheet was read over by the Presenting Officer and he was asked as to whether he understood the charges and whether he pleads guilty or not and he denied the charges and pleaded not guilty and he also gave the name of Shri A.B.Barapatre, as his defence representative and requested for the postponement of the enquiry, due to the absence of his representative and accordingly the proceeding was adjourned to 8-12-1987 and on that day, his representative was out of station and as such, the Inquiry Officer and the Presenting Officer started pressurising him to bring the defence representative, so under pressure, he was constrained to permit the Inquiry Officer to proceed with the enquiry and the enquiry was held in a haste and the Inquiry Officer adopted a most unusual procedure for conducting the enquiry and instead of proving the charge against him by examining witnesses, the Presenting Officer in most illegal and malafide manner started asking questions to him by giving complete go by to the procedure of the enquiry and the Inquiry Officer did not pay any heed to his objection regarding the procedure and proceeded with the enquiry in the same manner and the proceeding were written by the Presenting Officer as well as Inquiry Officer as per their wish and his signatures were obtained and the complete proceedings conducted on 8-12-87 were unilateral and then the proceeding was adjourned to 9-12-1987 and on that day also, the Presenting Officer went on asking him questions, taking advantage of his innocence and his unawareness about the procedure and then, the case was adjourned to 10-12-1987, on which date also, some questions were asked by the Presenting Officer and the Presenting Officer asked for two weeks time and the enquiry was fixed to 2-3-1988 and the enquiry was closed on 22-3-1988. It is also pleaded by the workman that the enquiry is invalid and not proper as no witness was examined by the management to prove the misconduct

and unusual procedure was adopted by the Inquiry Officer and Presenting Officer and no opportunity was given to him to cross-examine the witness and the documents produced by the management to prove the charges were initially not supplied to him and the complete enquiry proceedings were conducted and written in English, though he did not know English properly and the principles of natural justice were not followed in the enquiry and the findings are not proper and no reasonable opportunity was given to him to defend the case and the punishment is quite disproportionate to the charges levelled against him. The workman has prayed to set aside the order of discharge dated 2-1-1990 and for reinstatement in service with continuity of service and full back wages and all other incidental benefits.

4. The management in its written statement has pleaded inter alia that the workman was discharged from service by order dated 2-1-1990 and the order of discharge was proceeded by a domestic enquiry, which was held in conformity with the provisions of law and the principles of natural justice and due opportunity was given to the workman to defend himself in the enquiry. It is further pleaded by the management that the appointment of the workman on 21-1-1983 as a general workman was subjected to the terms and conditions as embodied in the order of appointment dated 15-12-1982 and the appointment was subjected to the conditions stated in clause 10 of the order of appointment which provides that, "This appointment is subject to your having furnished the corporation correct information regarding your past service and other record. If, at any time, it is revealed that employment has been obtained by furnishing false information, the Corporation will be free to terminate your services at any time with one month's notice", and the Party No.2, in support of his claim of belonging to "Mana" community, submitted a caste certificate dated 4-7-1978 issued by the Special Executive Magistrate, Nagpur and in the year 1986, the workman was rightly directed by the Depot Superintendent to produce the original caste certificate, as the workman had produced the Xerox copy of the caste certificate, as the time of his interview and the charge sheet was rightly issued against him, as the workman was well aware of the acts and omissions on his part on the basis of which, he secured the employment and the charge sheet was self-explanatory and in the charge sheet the acts and omission conducted by the workman were elaborately mentioned and the stand of the workman that he was not well conversant with English language, as he was educated through Hindi medium cannot be considered, as no such difficulty was expressed by him in his explanation dated 9-4-1987, which was filed to the charge sheet submitted against him and on the first day of the enquiry, the workman being enquired gave out to engage Shri A.B. Barapatre as his defence representative and requested for adjournment of the enquiry and the

Inquiry Officer acceded to such request and the enquiry was adjourned and the workman had submitted different documents alongwith his application for seeking appointment and in support of his claim of belonging to ST category and furnishing of the documents was never in dispute and as the case of the workman is a case which involved documentary evidence only, the oral evidence was eliminated and as the documents were furnished by the workman and he had given false informations pertaining to his age, qualification and caste to obtain the employment, there was nothing wrong in questioning him by the Presenting Officer about the same and as from the documents, the misconduct of the workman was proved, there was no necessity of examining any witness and the enquiry was not conducted in a haste and the procedure adopted by the Inquiry Officer was not illegal or arbitrarily and it was held according to the principles of natural justice and the enquiry is legal, fair and proper. It is also pleaded by the Party No.1 that the workman was found guilty of the charges leveled against him and after taking into consideration all the attending circumstances and the gravity of the charges, the punishment of discharge was imposed and the punishment is fully commensurate to the acts of misconduct proved against the workman and as such, the order of discharge dtd. 2-1-90 does not call for any interference and the workman is not entitled for any relief.

5. As this is a case of discharge from service of the workman proceeded by a domestic enquiry, the validity of the departmental enquiry was taken for consideration as a preliminary issue and by order dtd. 25-11-2010, the departmental enquiry was held to be legal, proper and by following the principles of natural justice.

6. At this juncture, I think it proper to mention here that from 11-2-2008 the parties did not appear in the case and as such, on 28-9-2010 the parties were given a last chance to take part in the case, but in spite of the same, as the parties did not appear to take part in the case, on 25-11-2010, order on the validity of the departmental enquiry was passed. Thereafter also, the parties did not appear to make submissions regarding the merit of the case in spite of giving sufficient opportunity for the same. Hence the case was closed on 13-4-2011 and the same was posted for award to 12-5-2011.

7. Perused the record including the evidence adduced by the parties. From the evidence on record, it is found that the workman by furnishing false documents and by tampering his date of birth had obtained the appointment with the Party No. 1 and when such facts came to the notice of the party No.1, a charge sheet containing the details of the allegations was issued against the workman and departmental enquiry was held in accordance with law and by following the principles of natural justice and in the enquiry, the charges leveled against the workman were

found to be proved. On perusal of the findings of the Inquiry Officer, it is found that the same are based on the evidence on record and reasons have been assigned for coming to such findings. Hence, it is found that the findings are not perverted. It is also found that in the appointment letter of the workman itself, there was a condition that if, at any time, it is revealed that employment has been obtained by furnishing false information or withholding pertinent information, the corporation will be free to terminate the services at any time with one month's notice. It is clear from the evidence on record that the workman had obtained the service by furnishing false informations. His such misconducts were proved in the departmental enquiry. The misconducts are very serious in nature, so the punishment of discharge from service cannot be said to be shockingly disproportionate to the misconduct proved against the workman. Hence, there is no ground to interfere with the punishment imposed against the workman. Hence, it is ordered :

ORDER

The action of the management of Hindustan Petroleum Corporation Ltd. in relation to their POL Depot, Khapari, Nagpur in discharging the services of Shri Kailash D. Rajoriya, General Workman w.e.f. 24-1-90 is justified. The workman is not entitled for any relief.

J.P. CHAND, Presiding Officer

नई दिल्ली, 16 अगस्त, 2011

का.आ. 2458.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन ऑयल कॉर्पोरेशन कोलकत्ता के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय न. 1, मुम्बई के पंचाट (संदर्भ संख्या 32/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-8-2011 को प्राप्त हुआ था।

[सं. एल-30011/17/99-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 16th August, 2011

S.O. 2458.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.32/99) of the Central Government Industrial Tribunal-cum-Labour Court No.1, Mumbai now as shown in the Annexure in the industrial dispute between the employers in relation to the management of Indian Oil Corporation Ltd., Kolkatta and their workmen, which was received by the Central Government on 16-8-2011.

[No. I-30011/17/99-IR (M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
AT KOLKATA

Reference No. 32 of 1999

Parties: Employers in relation to the management of
Indian Oil Corporation Ltd. (MD)

AND

Their workmen.

Present : Mr. Justice Manik Mohan Sarkar, Presiding Officer**Appearance:**On behalf of the: Mr. Arunava Ghosh, Advocate with
Management Mr. Raj Kumar Basu, AdvocateOn behalf of the: Mr. Soumya Majumder, Advocate.
Workmen

State: West Bengal. Industry: Petroleum.

Dated: 11th July, 2011.

AWARD

By Order No.J.-30011/17/99-IR (M) dated 06.08.1999 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication :

“Whether the action of the management of Indian Oil Corporation Ltd., Calcutta in recruiting/including the 28 casual workmen whose names are incorporated in Annexure A (the Annexure submitted by the Union contains the names of only 26 workmen) without being sponsored from the Employment and (ii) recruiting Shri Abhik Paul a non-matric son of Shri B.K. Paul ignoring the rights of handicapped son of Shri B.K. Singh and Shri S.B. Saha, employees of IOCL are justified? If not, to what relief are the concerned workmen entitled?”

Annexure-A

SL. No.	Name of the Cont. Labour Engaged in Working in December '94	Name of Employees Working in IOC at Barauni	Relationship of the Labour With the Employee
1	2	3	4
1.	Dhirej Kumar	B.M. Singh (20015)	Son
2.	Rajindra Prasad	Ramadhar Rai (2254) G. Yadav (13394)	Son Son-in-Law
3.	Ranjit Kumar	Nanda Kishore Singh 13965	Brother-In-Law
4.	Sanjit Kumar	R.K. Mishra	Cousin
5.	Kaushal Kishore Singh	P.N. Singh (2238)	Son
6.	Bal Krishna	Ramananda Prasad (13288)	Brother

1	2	3	4
7.	Anil Kumar Singh	Ramji Singh (2261)	Son
8.	Sachiodanand Prasad	Bikram Prasad (4398)	Brother
9.	Sanjay Kumar	C.K. Mishra (4152)	Son
10.	Arun Kr. Singh	S.P. Singh (21860)	Son
11.	Diwakar Jha	K.D. Jha (1997)	Son
12.	Jaynath Jha	N.N. Jha (4326)	Son
13.	Ranjeet Kr. Ranjan	R.R. Singh (3813)	Son
14.	Rohit Kumar	Ram Udgar Singh (2258)	Son
15.	Rakesh Kumar	Anandi Singh (4427)	Son
16.	Bidhya Sagar Rai	Ganesh Routh (4427)	Son
17.	Ram Sankar Singh	Ram Sundar Singh (4329)	Brother
18.	Diwesh Prasad	G. Yadav (13394)	Cousin
19.	Ranjit Kr. Sharma	K.P. Sharma (8086)	Brother
20.	Nawal Kishore Singh	Ram Jewan Singh (13981) Nand Kishore Singh (13965)	Son Brother
21.	Abhishek Kumar	T. Thakur (4327)	Son
22.	Mehdi Hasan	S.N. Jan (12010)	Son
23.	Niraj Kumar	P.N. Srivastava (4241)	Son
24.	Gopal Kumar	S.B. Das (2265)	Son
25.	Arun Kumar Singh	R.K. Singh (2257)	Son
26.	Mukesh Kumar	B. Singh (3810)	Son

2. In brief, the contention of the sponsoring union, i.e., Indian Oil Shramik Union, Eastern Region (MD) in its written statement of claim is that the business and affairs of the Corporation of the whole Eastern Region including the states of West Bengal, Bihar and Orissa are management and controlled by the Regional Office situated at Kolkata and the administrative control and supervision over the whole of Eastern Region is exercised by the Kolkata Office. At Barauni Terminal in Bihar, 42 contract workers served the management Corporation in LPG Cylinder Repairing Plant, continuously from 1982 to 1988 under different contractors cooperative society and subsequently the said plant was shifted to a distant place resulting loss of job of those 42 workers though at that point of time these workers were assured of absorption when the new unit at Barauni would be commissioned. The new terminal was constructed by the management for storage and distribution of SKO, HSD, ATF, MS and MTO though tank lorry being done by refinery and terminal was partly commissioned/put on trial run from January 28, 1993 with storage and distribution of SKO and HSD only by re-deploying surplus man power generated on account of transfer of operational activities related to these products

from the refinery to the new terminal and those were done basing upon a discussion with the recognized union, namely, Indian Oil Employees Union and an understanding was reached in between the said union and the management that the full man-power would be deployed within 3 to 6 months. Requisition was made to the Employment Officer, Begusarai on June 10, 1993 for sponsoring the names for recruitment of 7 number of workers on casual basis for the new terminal initially and the Employment Officer failed to sponsor any such name due to various disputes and financial irregularities within the Employment Exchange, ultimately resulting with the arrest of the Employment Officer of Begusarai and suspension of some employees of the Employment Exchange. Subsequently under the guidance of Employment Director at Patna list of 343 names of candidates were furnished to the IOC, Eastern Regional, Kolkata on or about 10th October, 1993 and the said list contained some names of 1982-1988 period contract workers as referred earlier. In mark of protest against the management's failure to provide the requisite man-power for the new terminal within the scheduled time assured earlier, the workers resorted to agitation from October 22, 1993 which included stoppage of work from November 06, 1993 and they demanded suspension of the new terminal operation and reversion back of supply of SKO and HSD by tank lorry to the refinery, which was absolutely illogical demand considering the fact that the refinery had already re-deployed the man-power meant for these operations. Such stoppage of work by the workers led to widespread disruption of supply. The D.M., Begusarai by an order dated November 3, 1993 summoned the General Manager, Eastern Region and D.G.M. (H.R.) to be present before him on November 5, 1993 to resolve the dispute although it was without jurisdiction and it was transpired that the D.M., Begusarai had sole interest in the matter and insisted RC, Barauni to recruit labour on casual basis for the terminal by-passing the Employment Exchange. On November 9, 1993 temporary normalcy was restored upon negotiation in between the management and the workmen union and on November 11, 1993 minutes were signed with the conditions that (i) Recruitment would be made within a time-frame of 70 days; (ii) Recruitment of additional man-power would be assessed as per the prevailing norms of the Corporation and while doing so, the recognized union would be taken into confidence.

3. Earlier, in view of the persisting agitation and deterioration of the situation, the management of IOCL raised an industrial dispute through a letter dated November 5, 1993 before the Regional labour Commissioner (Central), Patna and the IOEU resorted to stoppage of work on November 6, 1993 and the said dispute ultimately ended in failure. Basing upon the discussion IOCL mutual assurance in respect of recruitment, IOCL in letter dated December 10, 1993

intimated the Employment Officer, Begusarai that the requisition sent on June 10, 1993 for sponsoring names for recruitment of casual workers to be treated as cancelled. The management took a false plea of impossibility to recruit workers duly sponsored by the Employment Exchange in view of the poor law and order situation. Recruitment of 25 workers as per recommendation of the Indian Oil Employees Union at the Barauni Terminal was gaining apprehension of unrest and in the discussion held in between the General Secretary, IOEU, EB and GM (HR), HO/DGM(HR). ER that the said workers would be engaged against contract at Barauni initially and would be regularized subsequently and those workers are to be put into approval list with payment on daily rate basis as per rates fixed by the Head Office on all India basis from time to time. One Memorandum of Understanding was signed on March 2, 1996 in between the management and the IOEU regarding employment of 26 workers at Barauni Terminal. In an office memo dated 28th December, 1984 of the Indian Oil Corporation Ltd., it was decided that casual labourers, in future, should be engaged only through Employment Exchange and no casual labourers should be engaged through contractors. Although the management had so maintained a stand that the recruitment/induction of the concerned workers were sought to be made in terms of MOU dated March 2, 1996 in between the management and the Indian Oil Employees Union, such stand was deviated by the management by their letter dated April 29, 1998. Since the justified demand of the applicant union against illegal recruitment and induction of 26 workers by the management failed to evoke any correct step on the part of the management, the application union was constrained to issue a notice on December 22, 1998 to the management proposing to go on strike on 7-1-1999 and 8-1-1999 over the unfair labour practice by the IOCL in recruitment of casual/contractual workers and also a protest was raised in the said letter against the illegal recruitment of Shri Avik Pal ignoring the rights of Shri B.K. Singh and Shri S.B. Saha in violation of the recruitment of the recruitment policy of the IOCL over the matter of recruitment of physically handicapped category subject to passing the minimum qualification required under the recruitment policy and also by inclusion of their names in the recruitment panel prepared for handicapped persons in 1997 which remained valid for 3 years. Since the grievance received no remedy, the management by its letter dated 4-12-1998 referred the matter to the Regional Labour Commissioner (Central), Kolkata. A conciliation took place in the office of the Regional Labour Commissioner (Central), Kolkata on 5-1-1999 wherein the management contended that the recruitment of 28 persons was done after the MOU was signed with the Indian Oil Employees Union. On 12-01-1999 the management gave its written objection before the conciliation officer contending that the Corporation has recruited a deaf and dumb candidate after approval of the competent authority and it was done

according to the provision of recruitment policy relating to the recruitment of handicapped persons and that the demand for cancellation of empanelment of 28 casual workers was not acceptable to the management since the employment was done with due approval of the competent authority. Such conciliation ended in failure before the Regional Labour Commissioner (Central), Kolkata and thereafter the Central Government had issued the order of reference.

4. It is claimed by this workmen union that nepotism was practiced by the recruitment officers of the Corporation in the matter of giving employment to Shri Avik Pal the non-matric handicapped son of Indian Oil Employees Union Working President, Shri D.K. Pal in violation of the recruitment policy of the Indian Oil Corporation Ltd. and also the provisions of the Government of India Act, 1955 in respect of recruitment of physically handicapped subject to their possessing minimum qualification required under the recruitment policy and thereby legitimate claim of the handicapped sons of Shri Samir Baran Saha and Shri Birendra Kumar Singh were illegally deprived. It is claimed that the impugned action of the management falls under the purview of unfair labour practice as enumerated under the Fifth Schedule of the Industrial Disputes Act, 1947 and the management has sought to act beyond its own recruitment guidelines and choose to act in arbitrary and discriminatory manner and such recruitment/induction of 28 workers was not transparent and fair and is liable to be quashed.

5. In their written statement the management, Indian Oil Corporation Ltd. has submitted that the present reference is itself illegal and void and has conferred no jurisdiction upon the Tribunal under the provision of the Act to adjudicate and to pass any Award upon the issue of removal of the casual employees from the panel since it does not create any industrial dispute. It is further claimed by the Corporation that the 28 casual workers whose appointment is the subject matter in the issue, have not been made parties in this reference and any Award made in their absence will lead to the breach of natural justice. It is further claimed that the appointment on casual basis to the said 28 persons was made on the basis of a Memorandum of Understanding in between Indian Oil Employees Union (IOEU) a recognized union of the Indian Oil Corporation Ltd. and the Indian Oil Corporation Ltd. (IOCL). The sponsoring union of this reference viz. Indian Oil Shramik Union, Eastern Region never had 40% members of the workforce of IOCL Eastern Region. The IOCL has also denied of any assurance of absorption of any contract workers. It has further claimed by the Corporation that a requisition was sent to the Employment Exchange, Begusarai for sponsoring candidates for recruitment of workers on casual basis for the new terminal but the Employment Officer did not furnish any list and

ultimately the Employment Directorate furnished an incomplete list of 343 persons as the list did not contain information about the candidates in respect of their age, qualification etc. and so the said list could not acted upon. It is further claimed that there had been widespread industrial unrest and the requisite man-power could not be posted due to failure of the Employment Exchange and so discussions were held with the recognized union so that the newly commissioned terminal could be commissioned and operational and an arrangement was made for empanelment of casual labourers at Barauni Terminal since non-operation of the said plant was causing enormous loss to the IOCL. The IOCL has denied any clandestine dealing with any contractor as alleged and to keep the new terminal operational, the Corporation awarded contracts to meet the exigencies of the situation and to start and keep operational the Barauni Terminal. Management Corporation has repeatedly stated that it tried to recruit workmen through Employment Exchange. The workmen were agitating which led to virtual closure of Barauni Terminal and since the IOCL being a Government undertaking. It has to run its business commercially and as the new terminal was constructed by investing crores of rupees, it could not be kept idle for the failure of the Employment Exchange to send the list of candidates and man-power was urgently required so that the public interest did not suffer for non-production. It is further stated that even the civil authorities were pressing IOCL to recruit contract labourers or casual labourers without having recourse to the Employment Exchange and in doing so, IOCL expressly denied that it had any malafide intention in the said process of recruitment. It is specifically claimed by the IOCL that in recruiting Shri Avik Pal in the 'Deaf and Dumb' category, it has not illegally deprived anyone including the sons of Sarbasree Samir Baran Saha and Birendra Kumar Singh as their sons were not 'Deaf and Dumb' and it is also stated that the matriculate candidate in 'Deaf and Dumb' category is very rare. After denying most of the averments made by the workmen union in its written statement of claim and also admitting some of them, the management Corporation has concluded by stating that IOCL was compelled to employ the 26 persons named in the schedule of the order of reference to avoid serious disruption of industrial peace and production and claimed the employment of those casual labourers is not illegal and if their appointment/engagement is set aside in this reference, there will be serious industrial unrest once again.

6. Workmen union side thereafter confronted the contents of the written statement of the management, by filing a rejoinder wherein no new story has been referred and it was rather in the style of denial parawise the statements made by the management.

7. In course of argument, Mr. Arunava Ghosh, Ld. Advocate for the management submitted initially that the reference should not be adjudicated in the absence of the

said 28 casual workers as they have not been made party here and if any Award is passed in their absence affecting their employment, it will be a denial of natural justice to them. It has further been submitted by Mr. Ghosh that the identity of the sponsoring workmen union is not properly disclosed in respect of their representation since nowhere it is stated as to which workmen this union is representing in the present reference and also he has submitted that the said sponsoring workmen union is not a recognized union of the management of IOCL.

8. Mr. Ghosh has further stated that recruitment of the said 28 casual labourers was done in view of a Memorandum of Understanding entered into in between the management of IOCL and the recognized workmen union being IOEU but the said union also has not been made a party in this reference and in their absence, justifiability of the recruitment of the said 28 contract labourers should not be adjudicated as the recruitment of the said 28 contract labourers was an outcome of the said MOU involving the said recognized workmen union.

9. Mr. Ghosh insisted that the workmen union which acted in representative character in the present reference, rather failed to show that it had all the qualifications to raise the dispute in favour of the workmen who are employees of the IOCL as well as members of the said union, but the union sponsoring the reference for the persons they are representing in the present reference is having such character.

10. Mr. Soumya Majumder, Ld. Advocate for the workmen union submitted that the union representing in the present reference has membership strength of 40% of the workforce of IOCL in the Eastern Region and it is a registered trade union. It has further been stated that the Barauni Terminal in Bihar employed 42 contract workers in the LPG Cylinder Repairing Plant during the period from 1982 to 1988 under different contractors and co-operative societies and when the plant was shifted it resulted in loss of job of the said 42 workers though there was an assurance to them that they would be absorbed at the new unit as and when it would be commissioned. Such commissioning of the new plant was done and it started trial run from January 28, 1993. It is claimed by Mr. Majumder that by recruiting the said 28 labourers, the management of IOCL accommodated at the behest of the management of IOCL by way of unfair labour practice and thereby the management has given a total go-bye to their recruitment rules for appointment in the IOCL which is a public sector undertaking. It is also submitted by Mr. Majumder that though the management of IOCL has framed guidelines and/or policy for appointment of handicapped sons of existing employees, the vacancy created in the said category, was also been filled by engaging handicapped son of Working President of the IOEU although he did not fulfill the eligibility criteria for

appointment in such category. It is claimed further by Mr. Majumder that since the condition of service of workmen regarding employment/non-employment and/or conditions of service were involved, it squarely falls within the definition of industrial dispute and consequently if the recruitment of the said 28 persons named in the order of reference, is found to be illegal, IOCL may be directed to give hearing to the said 28 persons and cancel their appointment on the basis of the Award since the management has objected to the said 28 persons named in the order of reference to be added as parties.

11. In the present reference admittedly a dispute has been raised against recruitment of 28 casual labourers. None of the parties come forward to state that these 28 workers were appointed by the management Corporation against any regular vacancy and in some prescribed pay scale for such employees. Though the warring union has claimed repeatedly in different paragraphs of its written statement of claim that the recruitment of these casual workers was to be done by following some recruitment rules and regulations of the Corporation but unfortunately no such rule and regulation is forthcoming in the present reference for reference in respect of such procedure of engagement of casual labourers. However, the management side has stated that they have tried to engage such casual labourers from the candidates enlisted with the local Employment Exchange and for that reason requisition was made to the Employment Officer of the concerned area to supply the names. It is stated on behalf of the management that this was done to maintain transparency in the recruitment procedure. It is also stated on behalf of the management that initially the Employment Officer did not respond to such requisition and when the higher authorities in that department was contacted a list of candidates was forwarded to the Corporation only with the names and without any other details like age, qualification etc, and the management has stated that without such details the recruitment of such candidate was not possible on their part and then, upon consultation with the recognized workmen union a list of 26 candidates was considered to be engaged as casual labourers. This story on the part of the management. In the process of recruitment of the said casual labourers goes to show that there was no hasty approach on the part of the management Corporation in the process of such recruitment, rather the management tried all avenues for such engagement of casual labourers.

12. On the other hand, the move on the part of the workmen union raising the present industrial dispute has not stated what prejudiced it in the process of such recruitment. A recruitment can be challenged by union firstly on the ground that the said recruitment was done by way of superseding a deserving candidate and secondly that it was done by denying the prescribed procedure for such recruitment or by way of non-

implementation of the said prescribed procedure. In respect of appointing one handicapped person, namely, Shri Avik Pal a deaf and dumb candidate and also a son of an employee of the Corporation was challenged by the sponsoring union of this reference that it was done by ignoring the candidature of one Shri Sabyasachi Saha son of Shri Samir Baran Saha and Shri Rajib Ranjan son of Shri Birendra Kumar Singh and it is stated that it was done by ignoring the prescribed eligibility of the candidates for such handicapped person's appointment. In this context, it is difficult to understand as to how selection of a person to a solitary post can be assessed as a deprivation of other contesting candidate since selection lies in the hands of the employer. Though it is stated that said selected candidate was a non-matric and the others were qualified matriculate, no recruitment rules in that regard has been produced to show that in that case a casual labour such prescription has been made in respect of selection to the post reserved for handicapped persons.

13. It is repeatedly stated on behalf of the workmen union that where the condition of service of workmen regarding employment or condition of service was involved, such case falls within the definition of 'Industrial dispute' and when it is found that the management Corporation has taken some illegal procedure to recruit such 28 persons as casual labourers, the best possible solution of the dispute would be by way of cancelling their appointment by the Corporation. It is something mysterious to me to understand as to what for the sponsoring union wants cancellation of appointment of these casual labourers when there is no case on the part of the said union that this was done by ignoring the candidature of some eligible and befitting candidates or by way of superseding any such person who has been listed or empanelled for the purpose of such engagement. No case of deprivation has been raised by the workmen union and the dispute has been raised and maintained for no benefit on the part of the workmen union.

14. Firstly, it is to be understood what 'casual' means in respect of appointment of some workers. It means that such workers are engaged either on time-bound project or work to be done for the employer or to clear extra load of work of the employer when the employer has got small number of workers. For engagement of casual workers, normally no recruitment policy is maintained by the employer as the status of such workers are almost different from that of the regular workers employed under the Corporation.

15. It is already stated earlier that the workmen union has not cited any recruitment rules or procedure of the Corporation in printed form as to how casual worker is to be appointed and/or engaged. So, it is difficult to ascertain whether the management Corporation has acted arbitrarily by ignoring such provision of recruitment and whether

the said rules or procedure for recruitment of casual labour has been ignored.

16. Now the submission from the side of the management about non-joinder of the 26 workers whose appointment has been questioned by the workmen union, I am of the view that the dispute has been raised against the management Corporation for not complying with the provision of the recruitment policy for casual labours and for that reason the presence of the said 26 workers is not needed as the standing provision in that regard, if not complied, the said 26 workers have got no defence otherwise and the process of bringing them in this reference, would be nothing but a process of making the present reference in jeopardy and unnecessary delayed. These workers are never a necessary party in this reference though their engagement may be nullified if it is found that the management take proper recourse for their engagement. Further, I am also not accepting the submission of the management that the recognized union being Indian Oil Employees Union was a party in the settlement with the management in respect of the recruitment of casual labourers and in the present reference the said union is also needed to be a party. In the present reference no term and condition of the bipartite settlement has been challenged so as to make any of the parties therein prejudiced in deciding the issue made in the order of reference. The only allegation from the workmen union is of non-compliance of the provisions of such settlement. So the present reference is not suffering from any flaw in respect of want of parties.

17. Before phasing out, sometime should be devoted in respect of the decisions referred by the respective parties in support of their respective stand. Management side has stated that an Industrial Tribunal does not have jurisdiction to decide any dispute raised by a non-workman since an industrial dispute very much involves an industry in the style of employer and the workman who is an employee under the said employer in whatever capacity it may be. In this context, management has relied upon a decision reported in AIR 2004 SC 3905 (Mukand v. Mukand Staff & Officers' Association) wherein it has been held :

"Dispute can be raised only by the workmen with the employer. The workmen, however, can in appropriate cases espouse the cause of non-workmen if there is community of interest between the workmen and non-workmen.....If the non-workmen are given status and protection available to the workmen, it would mean that the entire machinery and procedure of the Act would apply to the non-workmen with regard to their employment/non-employment, the terms of employment, the conditions of labour etc. This would cast on the appellant-Company the onerous burden of compliance with the provisions of the Act in respect

the non-workmen. In our view, the situation is not envisaged by the Act which is solely designed to protect the interest of the workman as defined in Section 2(s) of the Act."

18. In respect of submission as to whether a dispute is 'industrial dispute', the management side has relied upon a decision reported in AIR 1966 SC 182 [Workmen of M/s. Dharam Pal Prem Chand (Saugandhi) v. M/s. Dharam Pal Prem Chand (Saugandhi)], In the said decision, the Hon'ble Court has held

"However, having regard to the broad policy which underlies the Act and in order to safeguard the interests of the working class in this country, the Supreme Court and indeed majority of Industrial Tribunals are inclined to take the view that in spite of the width of the words used by the Act in defining an 'industrial dispute', it would be expedient to require that a dispute raised by a dismissed employee unless it is supported either by his Union or, in the absence of a Union by a number of workmen, cannot become an industrial dispute. If such a limitation was not introduced, claims for reference may be made frivolously and unreasonably by dismissed employees, and that would be undesirable."

19. In the present context, though a workmen union under the Corporation, though unrecognized, has raised the present dispute as an industrial dispute, it has not stated as for whose cause the said union wanted the recruitment of 26 casual workers to be cancelled claiming the same to be illegal and it has not stated also as to for whose benefit the said union has raised the present dispute. In that case, the present dispute may be deemed to have been done in an *unorganized manner* since the management has claimed that engagement of said 26 workers was done by consultation with the Indian Oil Employees Union which is representing the majority workmen of the Corporation and which is a recognized union. It cannot be stated that the recruitment was an example of arbitrary work on the part of the management.

20. In this context the reference of different decisions relied upon by the workmen union side may also be discussed. Firstly the workmen union relied upon the much discussed decision reported in (2006) 4 S.C.C. 1 [Secretary, State of Karnataka and others v. Umadevi (3) and others] wherein the Hon'ble Court has discussed about the public employment in reference to absorption, regularization or permanent continuance of temporary, contractual, casual, daily wage or ad-hoc employees appointed/recruited and continued for long in public employment de-hors constitutional scheme of public employment. The workmen union particularly relied upon the said decision to say that when a recruitment was not done by following the prescribed recruitment rules in that regard, no right is accrued in the worker to claim any

protection and its prayer for regularization cannot be considered. I am afraid that the workmen union has taken recourse to such decision since the prayer for regularization is not the subject matter in the present reference, rather the workmen union has itself raised the dispute for cancellation of the engagement of 26 casual workers who are alleged not to have been engaged by following the proper procedure in that respect. The Id. Advocate for the workmen union has wrongly interpreted the said decision in the present context since the view of the Hon'ble Court in regard to the claim of regularization of casual or daily rated worker is not the subject matter of the present reference and so this decision is not applicable in the present context.

21. Next the workmen union has relied upon another decision reported in (2005) 3 S.C.C. 202 (J.H. Jadhav v. Forbes Gokak Ltd.) in reference to the definition of industrial dispute. In the said decision the Hon'ble Court held

"The locus classicus is the decision in *Workmen v. Dharampal Premchand (Saugandhi)* where it was held that for the purpose of Section 2(k) it must be shown that: (1) The dispute is connected with the employment or non-employment of a workman. (2) The dispute between a single workman and his employer was sponsored or espoused by the union of workmen or by a number of workmen. The phrase 'the union' merely indicates the union to which the employee belongs even though it may be a union of a minority of the workmen. (3) The establishment had no union of its own and some of the employees had joined the union of another establishment belonging to the same industry. In such a case it would be open to that union to take up the cause of the workmen if it is sufficiently representative of those workmen, despite the fact that such union was not exclusively of the workmen working in the establishment concerned. An illustration of what had been anticipated in *Dharampal* case is to be found in *Workmen v. Indian Express (P) Ltd.* where an 'outside' union was held to be sufficiently representative to espouse the cause."

In the said decision the Hon'ble Court specifically held about the locus standi of the union to espouse the cause of a workman and when there is no union the said cause may be espoused by a group of workmen under the employer. But in the present reference the sponsoring union, Indian Oil Shramik Union has not stated for whose cause the dispute has been raised by this union. Though a story was made that earlier some 42 workmen were disengaged with the assurance of re-employment in case of establishment of a new terminal, such a case has not been espoused in the present reference that the sponsoring union in the

present dispute as an industrial dispute to protect the said workers deprived of employment. In such a context, I am of the view that the present sponsoring workmen union has spoken many things in its written statement of claim but not properly explained why it has raised the present industrial dispute besides stating that it was not done in accordance with the procedure of such recruitment of casual workers without producing the prescribed procedure to that effect.

22. In view of all the discussions made above. I am of the view that in the present reference the workmen union has miserably failed to establish that the action of the management in recruiting/inducting the 28 casual workmen, even though not being sponsored from the Employment Exchange was done unjustifiably nor it has been proved by the workmen union that the action of the management in recruiting Shri Avik Pal ignoring the rights of handicapped sons of S/Shri B.K. Singh and S.B. Saha, employees of IOCL was also unjustified. In such circumstances, I am of the view that the workmen union of the present reference is not entitled to any relief.

Dated. Kolkata.

The 11th July, 2011.

JUSTICE MANIK MOHAN SARKAR, Presiding Officer

नई दिल्ली, 16 अगस्त, 2011

का.आ. 2459.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारत पेट्रोलियम कॉर्पोरेशन लिमिटेड, मुम्बई के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय न. 1 मुम्बई, के पंचाट (संदर्भ संख्या 81/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-8-2011 को प्राप्त हुआ था।

[सं. एल-30011/9/2004-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 16th August, 2011

S.O. 2459.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.81/2004) of the Central Government Industrial Tribunal-cum-Labour Court No.1, Mumbai now as shown in the Annexure in the industrial dispute between the employers in relation to the management of B.P.C.L. Marketing Division Mumbai and their workmen, which was received by the Central Government on 16-8-2011.

[No. L-30011/9/2004-IR (M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, MUMBAI

JUSTICE G.S. SARRAF, Presiding Officer

Reference NO. CGIT-1/81 OF 2004

Parties: Employers in relation to the management of B.P.C.L, Marketing Division

And

Their Workmen

Appearances:

For the Management : Mr.R.S.Pai, Adv.

For the Union : None present.

State : Maharashtra

Mumbai, dated the 8th day of July, 2011

AWARD

1. In exercise of powers conferred under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act 1947 the Central Government has referred the following dispute for adjudication to this Tribunal.

“Whether the action of the management of Bharat Petroleum Corporation Ltd., Marketing Division, Mumbai in not fixing the proper seniority of the staff members is justified? If not, to what relief the Unions are entitled?”

2. Statements of claim were filed by the Maharashtra General Kamgar Union and B.P.C.L Employees' Union. The management filed written statement. The Maharashtra General Kamgar Union filed rejoinder.

3. However, on 8-4-2011 the unions' counsels Ms.K.N.Samant and Mr.J.P.Sawant withdrew their appearances from the reference.

4. Thereafter notices were sent to the three unions.

5. None has appeared on behalf of the unions inspite of service of notices.

6. In the above circumstances the reference is fit to be disposed of as not prosecuted by the second party workmen.

7. Consequently, the reference stands disposed of as not prosecuted by the second party workmen.

8. An Award is passed accordingly.

JUSTICE G. S. SARRAF, Presiding Officer

नई दिल्ली, 16 अगस्त, 2011

का.आ. 2460.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय विमानपत्तन

प्राधिकरण सेलम के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चैन्नई के पंचाट (संदर्भ संख्या 41/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-8-2011 को प्राप्त हुआ था।

[सं. एल-11012/5/2007-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 16th August, 2011

S.O. 2460.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 41/2007) of the Central Government Industrial Tribunal/Labour Court Chennai now as shown in the Annexure in the industrial dispute between the employers in relation to the management of Air Port Authority of India Ltd (Salem) and their workmen, which was received by the Central Government on 16-8-2011.

[No. L-11012/5/2007-IR (M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT CHENNAI

Wednesday, the 27th July, 2011

Present : A.N. JANARDANAN, Presiding Officer

Industrial Dispute No. 41/2007

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Airport Authority of India and their Workman)

BETWEEN

Sri SA Palanisamy : 1st Party/Petitioner
S/o Sri Ammasi Gounder
Pudukadai, Chakarai Chettipatti P.O.
Omalar Taluk, Salem

Vs.

1. The Airport Officer : 2nd Party/1st
Airport Authority of India Ltd. Respondent
Salem Airport, Salem Distt.
2. M/s. New Everest Security Service : 2nd Party/2nd
Prop. K.M. Krishnan Respondent
Salem
3. The Managing Director : 2nd Party/3rd
M/s. New Everest Security Service Respondent
Salem

Appearance:

For the Petitioner : M/s. Balan Haridas, Advocates
For the 2nd Party/ : M/s. Sree and Associates, Advocates
1st Management
For the 2nd Party/ : Set Ex-parte
2nd Management
For the 2nd Party/ : Set Ex-parte
3rd Management

AWARD

The Central Government, Ministry of Labour vide its Order No. L-11 012/5/2007-IR(M) dated 9-7-2007 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

The schedule mentioned in that order is :

“Whether the action of the management of Airport Authority of India in not regularizing the services of Sri S.A. Palanisamy is legal and justified. If not, what relief is the workman entitled for?”

2. After the receipt of Industrial Dispute, this Tribunal has numbered it as ID 41/2007 and issued notices to both sides. The petitioner entered appearance through his Advocate and filed claim statement and on the other hand, the Respondent has not appeared either personally or through their representative even after two notices and he was set ex-parte. Accordingly, this tribunal on 28-8-2007 passed an ex-parte award holding that the petitioner is entitled to the reinstatement into service followed by regularization.

3. As per order dated 19-12-2007 on IA 67/2007 the ex-parte order was set aside and the Respondent entered appearance through Advocate. Petitioner then filed Additional Claim Statement and 1st Respondent filed Counter and again the petitioner filed Reply Statement Afterwards as per order dated 22-03-2010 on IA 78/2009, 2nd and 3rd Respondents were impleaded who though served with the notice were called absent and set ex-parte.

4. The allegation in the claim statement/memo of objection are briefly as follows :

The petitioner was appointed as watch and ward by one, New Everest Security Services in the year 1994 and the work was allotted by the Respondent/Management. But the petitioner signed in the attendance register maintained by the Respondent and was also getting the salary from the Respondent/Management. The petitioner and 9 others thus employed by the contractor were under the impression that the contract would be renewed every year but to their surprise the contract of the contractor which expired in the year 1998 was not renewed. The petitioner fearing of his termination has filed a Writ Petition before the Hon'ble High Court which was numbered as WP No. 2719, 3407 of 1998 and WMP No. 4041 and 5070 to 5076/1998 and in that the Hon'ble High Court directed the Respondent that they should provide work to the petitioner and other 9 persons and also further directed that they should be regularized in the services. After that the

Respondent/Management has called the petitioner and other workers and report for duty on contract basis by its Order no. AAI/NAD/SM/EB.15/331 dated 21/22-9-1998. The work allotted to the petitioner and others is not only watch and ward but also the preliminary nature of work and the work is perennial in nature which is very essential and without which at the Airport Operation of landing and taking of flights cannot be possible. While so, on 18-03-2005, the petitioner was not permitted to enter into the Airport and not even permitted to meet the Airport Officer. The petitioner was not given any notice oral or written before such termination of his services and the Respondent has also employed certain other workers for doing the same work in the Airport. This action of the Respondent is illegal, nonest in law. They have also issued a letter to the petitioner to vacate the quarters immediately. The petitioner learnt that the Respondent/Management had preferred an appeal against the orders of the Writ Petition and it had obtained an order in their favour by concealing the real facts. Now the action of the Respondent in terminating the services of the petitioner is illegal and against the mandatory provisions of the Industrial Disputes Act. Therefore, the petitioner prays this Tribunal to reinstate him in service with back-wages from the date of termination viz. 18-03-2005 and to regularise the services of the petitioner in the Respondent/Management and also for consequential benefits.

5. In the Additional Claim Statement the following contentions are raised :

S/Sri M. Kalaikovan, Annamalai, R. Ravi, Kumar @ Ammichi, S.A. Palanisamy, Arumugam, Perumalsamy, M. Thangaraj, and Soundariammal were directly employed in Airport at Salem of whom the first 6 persons were Watch and Ward and the other 3 were Scavengers with a payment of Rs. 2,590 and Rs. 1,632 per month respectively for each group. They were working in 3 shifts without holiday throughout the year as employed continuously since 1994 till 18-03-2005 when they were orally terminated. Of them Annamalai and Soundariammal are still working in the Airport with wages paid in fictitious names. Afterwards they employed 3 fresh hands viz. Ramesh, Yoganandham and Sivaji Rao to do the work of the petitioners in violation of Section-25H of the ID Act. Petitioner has worked for more than 240 days continuously within a period of 12 calendar months immediately prior to termination. Section-25F of the ID Act was not complied with. He has also worked for more than 480 days continuously within a period of 24 calendar months. He is entitled to be made permanent under Section-3 of the Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workmen) Act, 1981. The petitioner and persons similarly placed like him were directly working under the Respondent doing various categories of duties. Respondent was paying bonus every year to him. Petitioner was not covered under ESI and EPF MP Act though they are covered under it. Respondent tried to make it appear that petitioner and similar others are employed through Contractor. The contract is only sham and nominal from 1998. The contract

was also discontinued. Respondent will be in need of further manpower due to expansion and development of the Airport. Petitioner is suffering without employment. He is to be ordered to be reinstated by regularizing his services with full back wages and all benefits.

6. The 2nd and 3rd Respondent being set ex-parte no counter statement was filed.

7. The allegations in the Counter Statement of the 1st Respondent briefly read as follows:

The Respondent is concerned with the work being done only from the Contractor. The petitioner is only concerned with the Contractor only based on their understanding. It is denied that petitioner with similar others is doing perennial work. The allegations are with ulterior motives with some vested interest to which he is not entitled. He cannot make any claim against the Respondent. Petitioner was never engaged by the 1st Respondent. He is not entitled to any notice from it. There is no privity of contract between him and 1st Respondent. That payments were made in fictitious names is baseless. The claim is to be dismissed.

8. The Reply Statement averments of the petitioner in a nutshell are as follows:

The so-called Contractor was only a name lender and the contract a smokescreen to deprive legitimate benefits to the petitioner.

9. The evidence consists of the oral evidence of WW1 and Ex.W1 to Ex.W10 on the petitioner's side and the testimony of MW1 and Ex.M1 to Ex.M8 on the Respondent's side.

10. Points for consideration are:

- (i) Whether the action in not regularizing the service of Sri S.A. Palanisamy is legal and justified?
- (ii) To what relief the concerned petitioner is entitled?

Points (i), (ii)

11. Heard both sides. Perused the records, documents and the common written arguments on behalf of the petitioners and the written arguments on behalf of the 1st Respondent. It is argued on behalf of the petitioner that the petitioner-workman has been proved to have been directly employed by the 1st Respondent and was not contract labour and he is entitled to an order for regularization and reinstatement into service with all benefits.

12. The contra arguments on behalf of the Respondent are that the petitioner was engaged only as contract labour under the 2nd Respondent contractor as is evidenced by Ex.M1 to Ex.M4 and that on the expiry of the contract period they ceased to be contract labour and were not permitted to work under the 1st Respondent under any Contractor. Though there had been an order for their regularization of the High Court of Madras in Writ Petitions finally in Writ Appeal the same was set aside. During the interregnum period stay issued by the High Court he

continued to be in service under R1 only in compliance of the Court order and while so they were paid wages by the 1st Respondent at the rates of contract wages. So the claim that petitioner was in service till 18-3-2005 is baseless. Petitioner has never been directly engaged under the 1st Respondent and the engagement under the 1st Respondent to comply with the Court direction cannot result in blossoming of any right. He was signing Attendance Register of the Contractor with no interse employer-employee relationship with the 1st Respondent. These are facts virtually admitted by the workman. That they were permitted to stay in vacant quarters also cannot be found to lead to develop a right in their favour which was on payment of rent. The 1st Respondent is bound by the statutory recruitment rules in force from time to time in the matter of appointment of employees. Annamalai and Soundariammal were not engaged after 2005 and compassionate appointment of any person cannot be called in question by the workman. There is no tangible evidence to substantiate the claim of the workman for any relief. The attempt of workman is for a backdoor entry into the service under the 1st Respondent.

13. The claim of the workman that he is entitled to regularization and consequent reinstatement into service of the 1st Respondent does not stand substantiated at all with any tangible evidence or from any evidentiary facts or circumstances under which it could be so inferred by treating the contract of the 1st Respondent with the 2nd Respondent for providing contract labour for various duties under and within the premises of the first Respondent as being merely sham or nominal. It is in evidence that the workman has been under a Contractor as contract labour and when the contract expired his engagement ceased under the Contractor. The admitted fact that he had worked under the 1st Respondent on the strength of an interim direction obtained from the High Court in Writ or Writ Appeal, just to carry out by the 1st Respondent in compliance of the direction of the High Court and the further fact that the same followed letting out of accommodation on rent and on request, that they were provided with entry passes or identity card etc. for access into the premises, which are necessary for enabling them to discharge their duties, cannot be said to be factors pointing to the fact that they were really direct employees or treated directly as employees under the 1st Respondent. Completion of 240 days or 480 days under the Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workmen) Act, 1981 within 12 months or 24 months respectively cannot be of any benefit to the workman to claim any reinstatement or regularization under the 1st Respondent in the case of even violation of Section-25F of the I D Act which he may avail if a proper case is made out against his Contractor, the 2nd Respondent. Therefore the claim of the petitioner for regularization under the 1st Respondent is not legal and justified. He is not entitled to any relief. For the laches, if any, on the part of the 2nd and 3rd Respondent, now ex-parte in not paying the PF benefit to the petitioner during the contract period, i.e. upto expiry of the labour contract from the date of

appointment to the extent the 2nd and 3rd Respondent are liable the petitioner is entitled to realize the same from them. The petitioner is not entitled to any relief from the 1st Respondent other than the above realizable from the 2nd and 3rd Respondent. The action of 1st Respondent in not regularizing the service of the workman is, therefore, only legal and justified.

14. The reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 27th July, 2011)

A.N. JANARDANAN, Presiding Officer

Witnesses Examined :—

For the 1st Party/ WW1, Sri S.A. Palanisamy
Petitioner :

For the 2nd Party/ : MW1, Sri M. Mathivanan
Management

Documents Marked:

From the Petitioner's side

Ex.No.	Date	Description
Ex.W1	22-09-1998	Order of the 1st Respondent
Ex.W2	11-09-2005	Representation of the petitioner
Ex.W3	19-06-1998	Order in WP 2719, 3407 to 3413, 4041 and 5070 to 5076 of 1998
Ex.W4	18-03-2005	Final order in Writ Appeals
Ex.W5	31-12-2002	Temporary Pass
Ex.W6	19-09-2005	2A Petition
Ex.W7	-	Rejoinder
Ex.W8	25-08-2006	Minutes of Meeting
Ex.W9	24-08-2006	Respondents comments
Ex.W10	—	Minutes of the Conciliation Proceedings.

On the Management's side

Ex.No.	Date	Description
Ex.M1	17-03-1994	Agreement entered into between the Party-II and III
Ex.M2	15-09-1994	Agreement entered into between the Party-II and III
Ex.M3	24-03-1995	Agreement entered into between the Party-II and III
Ex.M4	02-04-1996	Agreement entered into between the Party-II and III
Ex.M5	—	Letter of renewal from time to time
Ex.M6	17-03-2005	Letter from personal department with notification dated 11-02-2005
Ex.M7	19-06-1998	Order passed in WP Nos. 2719 and 3407 to 3413/98 on the file of Hon'ble High Court, Madras
Ex.M8	14-03-1998	Order passed in WA Nos. 1048 to 1052 and 1092 to 1094 of 1998 on the file of Hon'ble High Court, Madras.

नई दिल्ली, 16 अगस्त, 2011

का.आ. 2461.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय विमानपत्तन प्राधिकरण, सेलम के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 34/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-8-2011 को प्राप्त हुआ था।

[सं. एल-11012/6/2007-आई आर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 16th August, 2011

S.O. 2461.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 34/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai now as shown in the Annexure in the industrial dispute between the employers in relation to the management of Air Port Authority of India Ltd. (Salem) and their workman, which was received by the Central Government on 16-8-2011.

[No. L-11012/6/2007-IR (M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Wednesday, the 27th July, 2011

Present: A.N. JANARDANAN, Presiding Officer

Industrial Dispute No. 34/2007

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Airport Authority of India and their Workman)

BETWEEN

Sri P. Ammichi
S/o Palanisamy
Kamalapuram Mel Veedhi,
Kamalapuram PO,
Omahur Taluk,
Salem

1st Party/Petitioner

Vs.

1. The Airport Officer
Airport Authority of India Ltd.
Salem Airport,
Salem Distt.

2nd Party/1st Respondent

2. M/s New Everest Security
Service, Prop. K.M. Krishnan, 2nd Party/2nd Respondent
Salem

3. The Managing Director
M/s New Everest Security Service
Salem

2nd Party/3rd Respondent

APPEARANCE:

For the Petitioner : M/s. Balan Haridas, Advocates

For the 2nd Party/1st : M/s. Sree and
Management Associates, Advocates

For the 2nd Party/2nd Management : Set Ex-parte

For the 2nd Party/3rd Management : Set Ex-parte

AWARD

The Central Government, Ministry of Labour vide its Order No. L-11012/6/2007-IR(M) dated 02/04-07-2007 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

"Whether the action of the management of Airport Authority of India in not regularizing the services of Sri P. Ammichi is legal and justified. If not, to what relief is the workman entitled to?"

2. After the receipt of Industrial Dispute, this Tribunal has numbered it as ID 34/2007 and issued notices to both sides. The petitioner entered appearance through his Advocate and filed claim statement and on the other hand, the Respondent has not appeared either personally or through their representative even after two notices. Accordingly, this tribunal on 28-08-2007 passed an ex-parte award holding that the petitioner is entitled to the reinstatement into service followed by regularization.

3. As per order dated 19-12-2007 on 1A/67/2007 the ex-parte order was set aside and the Respondent entered appearance through Advocate. Petitioner then filed Additional Claim Statement and 1st Respondent filed Counter and again the petitioner filed Reply Statement. Afterwards as per order dated 22-03-2010 on 1A/78/2009, 2nd and 3rd Respondents were impleaded who though served with the notice were called absent and set ex-parte.

4. The allegations in the claim statement are briefly as follows :

The petitioner was appointed as watch and ward by one, New Everest Security Services in the year 1994 and the work was allotted by the Respondent/Management. The petitioner signed in the attendance register maintained by the Respondent and was also getting the salary from the Respondent/Management. The petitioner and 9 others thus employed by the contractor were under the impression that the contractor would renew the contract every year but to their surprise the contract of the contractor which expired in the year 1998 and was not renewed. The petitioner fearing of his termination has filed a Writ Petition before the Hon'ble High Court which was numbered as WP No. 2719, 3407 of 1998 and WMP No. 4041 and 5070 to 5076/1998 and in that the Hon'ble High Court directed the Respondent that they should be provide the work to the petitioner and other 9 persons and also further directed that they should be regularized in the services. After that the Respondent/Management has called the petitioner

and other workers and report for duty on contract basis by its Order no. AAI/NAD/SM/EB.15/333 dated 21/22-9-1998. The work allotted to the petitioner and others is not only watch and ward but also the preliminary nature of work and the work is perennial in nature which is very essential and without which the airport operation of landing and taking of flights cannot be possible. While so, on 18-03-2005, the petitioner was not admitted to enter into the Airport and not even permitted to meet the Airport Officer. The petitioner was not given any notice oral or written before such termination of his services and the Respondent has also employed certain other workers for doing the same work in the Airport. This action of the Respondent is illegal, no nest in law. They have also issued a letter to the petitioner to vacate the quarters immediately. The petitioner learned that the Respondent/Management had preferred an appeal against the orders of the Writ Petition and it had obtained an order in their favour by concealing the real facts. Now the action of the Respondent in terminating the services of the petitioner is illegal and against the mandatory provisions of the Industrial Disputes Act. Therefore, the petitioner prays this Tribunal to reinstate him in service with back-wages from the date of termination viz. 18-03-2005 and to regularise the services of the petitioner in the Respondent/Management and also for consequential benefits.

5. In the Additional Claim Statement the following contentions are raised:

S/Sri M. Kalaikovan, Annamalai, R. Ravi, Kumar @ Ammichi, S.A. Palanisamy, Arumugam, Perumalsamy, M. Thangaraj, and Soudariammal were directly employed in Airport at Salem of whom the first 6 persons were Watch and Ward and the other 3 were Scavengers with a payment of Rs. 2,590 and Rs. 1,632 per month respectively for each group. They were working in 3 shifts without holiday throughout the year as employed continuously since 1994 till 18-03-2005 when they were orally terminated. Of them Annamalai and Soundariammal are still working in the Airport with wages paid in fictitious names. Afterwards they employed 3 fresh hands viz. Ramesh, Yoganandham and Sivaji Rao to do the work of the petitioners in violation of Section-25H of the ID Act. Petitioner has worked for more than 240 days continuously within a period of 12 calendar months immediately prior to termination. Section-25F of the ID Act was not complied with. He has also worked for more than 480 days continuously within a period of 24 calendar months. He is entitled to be made permanent under Section-3 of the Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workmen) Act, 1981. The petitioner and persons similarly placed like him were directly working under the Respondent doing various categories of duties. Respondent was paying bonus every year to him. Petitioner was not covered under ESI and EPF MP Act though they are covered under it. Respondent tried to make it appear that petitioner and similar others are employed through Contractor. The contract is only sham and nominal from 1998. The contract was also discontinued. Respondent

will be in need of further manpower due to expansion and development of the Airport. Petitioner is suffering without employment. He is to be ordered to be reinstated by regularizing his services with full back wages and all benefits.

6. The 2nd and 3rd Respondent being set ex-parte no counter statement was filed.

7. The allegations in the Counter Statement of the 1st Respondent briefly read as follows:

The Respondent is concerned with the work being done only from the Contractor. The petitioner is only concerned with the Contractor only based on their understanding. It is denied that petitioner with similar others is doing perennial work. The allegations are with ulterior motives with some vested interest to which he is not entitled. He cannot make any claim against the Respondent. Petitioner was never engaged by the 1st Respondent. He is not entitled to any notice from it. There is no privity of contract between him and 1st Respondent. That payments were made in fictitious names is baseless. The claim is to be dismissed.

8. The Reply Statement averments of the petitioner in a nutshell are as follows:

The so-called Contractor was only a name lender and the contract a smokescreen to deprive legitimate benefits to the petitioner.

9. The evidence consists of the oral evidence of WW1 and the testimony of MW1 and Ex.M1 to Ex.M8 on the Respondent's side.

10. Points for consideration are:

- (i) Whether the action in not regularizing the service of Sri P. Ammichi is legal and justified?
- (ii) To what relief the concerned petitioner is entitled?

Points (i) (ii)

11. Heard both sides. Perused the records, documents and the common written arguments on behalf of the petitioners and the written arguments on behalf of the 1st Respondent. It is argued on behalf of the petitioner that the petitioner-workman has been proved to have been directly employed by the 1st Respondent and was not contract labour and he is entitled to an order for regularization and reinstatement into service with all benefits.

12. The contra arguments on behalf of the Respondent are that the petitioner was engaged only as contract labour under the 2nd Respondent contractor as is evidenced by Ex.M1 to Ex.M4 and that on the expiry of the contract period they ceased to be contract labour and were not permitted to work under the 1st Respondent under any Contractor. Though there had been an order for their regularization of the High Court of Madras in Writ Petitions finally in Writ Appeal the same was set aside. During the

interregnum period stay issued by the High Court he continued to be in service under R1 only in compliance of the Court order and while so they were paid wages by the 1st Respondent at the rates of contract wages. So the claim that petitioner was in service till 18-03-2005 is baseless. Petitioner has never been directly engaged under the 1st Respondent and the engagement under the 1st Respondent to comply with the Court direction cannot result in blossoming of any right. He was signing Attendance Register of the Contractor with no interse employer-employee relationship with the 1st Respondent. These are facts virtually admitted by the workman. That they were permitted to stay in vacant quarters also cannot be found to lead to develop a right in their favour which was on payment of rent. The 1st Respondent is bound by the statutory recruitment rules in force from time to time in the matter of appointment of employees. Annamalai and Soundariammal were not engaged after 2005 and compassionate appointment of any person cannot be called in question by the workman. There is no tangible evidence to substantiate the claim of the workman for any relief. The attempt of workman is for a backdoor entry into the service under the 1st Respondent.

13. The claim of the workman that he is entitled to regularization and consequent reinstatement into service of the 1st Respondent does not stand substantiated at all with any tangible evidence or from any evidentiary facts or circumstances under which it could be so inferred by treating the contract of the 1st Respondent with the 2nd Respondent for providing contract labour for various duties under and within the premises of the first Respondent as being merely sham or nominal. It is in evidence that the workman has been under a Contractor as contract labour and when the contract expired his engagement ceased under the Contractor. The admitted fact that he had worked the 1st Respondent on the strength of an interim direction obtained from the High Court in Writ or Writ Appeal, just to carry out by the 1st Respondent in compliance of the direction of the High Court and the further fact that the same followed letting out of accommodation on rent and on request, that they were provided with entry passes or identity card etc. for access into the premises, which are necessary for enabling them to discharge their duties, cannot be said to be factors pointing to the fact that they were really direct employees or treated directly as employees under the 1st Respondent. Completion of 240 days or 480 days under the Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workmen) Act, 1981 within 12 months or 24 months respectively cannot be of any benefit to the workman to claim any reinstatement or regularization under the 1st Respondent. The claim of the workman is not substantiated. He is not entitled to any relief or benefits, if any, on the part of the 2nd and 3rd Respondent, now ex-parte in not paying the PF

benefit to the petitioner during the contract period, i.e. upto expiry of the labour contract from the date of appointment to the extent the 2nd and 3rd Respondent are liable the petitioner is entitled to realize the same from them. The petitioner is not entitled to any relief from the 1st Respondent other than the above realizable from the 2nd and 3rd Respondent. The action of 1st Respondent in not regularizing the service of the workman is, therefore, only legal and justified.

14. The reference is answered accordingly.

(Dictated to the P. A, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 27th July, 2011)

A.N. JANARDANAN, Presiding Officer

Witnesses Examined :

For the 1st Party/Petitioner : WW1, Sri P. Ammichi

For the 2nd Party/Management : MW1, Sri M. Mathivanan

Documents Marked :

From the Petitioner's side

Ex.No.	Date	Description
		Nil

On the Management's side

Ex.No.	Date	Description
Ex.M1	17-03-1994	Agreement entered into between the Party II and III
Ex.M2	15-09-1994	Agreement entered into between the Party II and III
Ex.M3	24-03-1995	Agreement entered into between Party II and III
Ex.M4	02-04-1996	Agreement entered into between Party II and III
Ex.M5	-	Letter of renewal from time to time
Ex.M6	17-03-2005	Letter from personal department with notification dated 11-02-2005
Ex.M7	19-06-1998	Order passed in WP Nos. 2719 and 3407 to 3413/98 on the file of Hon'ble High Court, Madras
Ex.M8	14-03-1998	Order passed in WA Nos. 1048 to 1052 and 1092 to 1094 of 1998 on the file of Hon'ble High Court, Madras

नई दिल्ली, 16 अगस्त, 2011

का.आ. 2462.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय विमानपत्तन प्राधिकरण सेलम के प्रबंधन के संबंध में नियोजकों और कार्यकर्ताओं के बीच विवाद में निम्नलिखित फैसले के तहत कार्य कर रही है।

[सं. एल-11012/7/2007-आई आर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 16th August, 2011

S.O. 2462.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 42/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the industrial dispute between the employers in relation to the management of Air Port Authority of India Ltd. (Salem) and their workman, which was received by the Central Government on 16-8-2011.

[No. L-11012/7/2007-IR (M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Wednesday, the 27th July, 2011

Present : A.N. JANARDANAN, Presiding Officer

Industrial Dispute No. 42/2007

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Airport Authority of India and their Workman)

BETWEEN

Sri R. Ravi : 1st Party/Petitioner
S/o Sri Raman, Masilapalayam P.O.,
Madayankuttai Via Mettur
Salem-636452

Vs.

1. The Airport Officer : 2nd Party/1st Respondent
Airport Authority of India
Ltd. Salem Airport.
Salem Distt.
2. M/s New Everest Security : 2nd Party/2nd Respondent
Service, Prop. K.M. Krishnan,
Salem
3. The Managing Director : 2nd Party/3rd Respondent.
M/s New Everest Security
Service, Salem

APPEARANCE :

For the Petitioner : M/s Balan Haridas, Advocates
For the 2nd Party/ 1st Management M/s Sree and
: Associates, Advocates
For the 2nd Party/2nd Management : Set Ex-parte
For the 2nd Party/3rd Management : Set Ex-parte

AWARD

The Central Government, Ministry of Labour vide its Order No. L-11012/7/2007-IR(M) dated 09-07-2007 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

"Whether the action of the management of Airport Authority of India in not regularizing the services of Sri R. Ravi is legal and justified. If not, what relief is the workman entitled for?"

2. After the receipt of Industrial Dispute, this Tribunal has numbered it as ID 42/2007 and issued notices to both sides. The petitioner entered appearance through his Advocate and filed claim statement and on the other hand, the Respondent has not appeared either personally or through their representative even after two notices and he was set ex-parte. Accordingly, this tribunal on 28-08-2007 passed an ex-parte award holding that the petitioner is entitled to the reinstatement into service followed by regularization.

3. As per order dated 19-12-2007 on 1A 67/2007 the ex-parte order was set aside and the Respondent entered appearance through Advocate. Petitioner then filed Additional Claim Statement and 1st Respondent filed Counter and again the petitioner filed Reply Statement. Afterwards as per order dated 22-03-2010 on 1A 78/2009, 2nd and 3rd Respondents were impleaded who though served with the notice were called absent and set ex-parte.

4. The allegations in the claim statement are briefly as follows:

The petitioner was appointed as watch and ward by one, New Everest Security Services in the year 1994 and the work was allotted by the Respondent/Management. But the petitioner signed in the attendance register maintained by the Respondent and was also getting the salary from the Respondent/Management. The petitioner and 9 others thus employed by the contractor were under the impression that the contract would be renewed every year but to their surprise the contract of the contractor which expired in the year 1998 was not renewed. The petitioner fearing of his termination has filed a Writ Petition before the Hon'ble High Court which was numbered as WP No. 2719, 3407 of 1998 and WMP No. 4041 and 5070 to 5076/1998 and in that the Hon'ble High Court directed the Respondent that they should provide work to the petitioner and other 9 persons and also further directed that they should be regularized in the services. After that the Respondent/Management has called the petitioner and other workers and report for duty on contract basis by its Order no. AAI/NAD/SM/EB.15/329 dated 21/22-9-1998. The work allotted to the petitioner and others is not only watch and ward but also the preliminary nature of work and the work is perennial in nature which is very essential and without which at the Airport Operation of landing and taking of flights cannot be possible. While so, on 18-03-2005, the petitioner was not permitted to enter into the Airport and not even permitted to meet the Airport Officer. The petitioner was not given any notice oral or written before such

termination of his services and the Respondent has also employed certain other workers for doing the same work in the Airport. This action of the Respondent is illegal, nonest in law. They have also issued a letter to the petitioner to vacate the quarters immediately. The petitioner learnt that the Respondent/Management had preferred an appeal against the orders of the Writ Petition and it had obtained an order in their favour by concealing the real facts. Now the action of the Respondent in terminating the services of the petitioner is illegal and against the mandatory provisions of the Industrial Disputes Act. Therefore, the petitioner prays this Tribunal to reinstate him in service with back-wages from the date of termination viz. 18-03-2005 and to regularise the services of the petitioner in the Respondent/Management and also for consequential benefits.

5. In the Additional Claim Statement the following contentions are raised:

S/Sri M. Kalaikovan, Annamalai, R. Ravi, Kumar @ Ammichi, S.A. Palanisamy, Arumugam, Perumalsamy, M. Thangaraj, and Soundariammal were directly employed in Airport at Salem of whom the first 6 persons were Watch and Ward and the other 3 were Scavengers with a payment of Rs. 2,590 and Rs. 1,632 per month respectively for each group. They were working in 3 shifts without holiday throughout the year as employed continuously since 1994 till 18-03-2005 when they were orally terminated. Of them Annamalai and Soundariammal are still working in the Airport with wages paid in fictitious names. Afterwards they employed 3 fresh hands viz. Ramesh, Yoganandham and Sivaji Rao to do the work of the petitioners in violation of Section-25H of the ID Act. Petitioner has worked for more than 240 days continuously within a period of 12 calendar months immediately prior to termination. Section-25F of the ID Act was not complied with. He has also worked for more than 480 days continuously within a period of 24 calendar months. He is entitled to be made permanent under Section-3 of the Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workmen) Act, 1981. The petitioner and persons similarly placed like him were directly working under the Respondent doing various categories of duties. Respondent was paying bonus every year to him. Petitioner was not covered under ESI and EPF MP Act though they are covered under it. Respondent tried to make it appear that petitioner and similar others are employed through Contractor. The contract is only sham and nominal from 1998. The contract was also discontinued. Respondent will be in need of further manpower due to expansion and development of the Airport. Petitioner is suffering without employment. He is to be ordered to be reinstated by regularizing his services with full back wages and all benefits.

6. The 2nd and 3rd Respondent being set ex-parte no counter statement was filed.

7. The allegations in the Counter Statement of the 1st Respondent briefly read as follows:

The Respondent is concerned with the work being done only from the Contractor. The petitioner is only concerned with the Contractor only based on their understanding. It is denied that petitioner with similar others is doing perennial work. The allegations are with ulterior motives with some vested interest to which he is not entitled. He cannot make any claim against the Respondent. Petitioner was never engaged by the 1st Respondent. He is not entitled to any notice from it. There is no privity of contract between him and 1st Respondent. That payments were made in fictitious names is baseless. The claim is to be dismissed.

8. The Reply Statement averments of the petitioner in a nutshell are as follows :

The so-called Contractor was only a name lender and the contract a smokescreen to deprive legitimate benefits to the petitioner.

9. The evidence consists of the oral evidence of WW1 and Ex.W1 to Ex.W11 and the testimony of MW1 and Ex.M1 to Ex.M8 on the Respondent's side.

10. Points for consideration are:

- (i) Whether the action in not regularizing the service of Sri R. Ravi is legal and justified?
- (ii) To what relief the concerned petitioner is entitled?

Points (i) (ii)

11. Heard both sides. Perused the records, documents and the common written arguments on behalf of the petitioners and the written arguments on behalf of the 1st Respondent. It is argued on behalf of the petitioner that the petitioner-workman has been proved to have been directly employed by the 1st Respondent and was not contract labour and he is entitled to an order for regularization and reinstatement into service with all benefits.

12. The contra arguments on behalf of the Respondent are that the petitioner was engaged only as contract labour under the 2nd Respondent contractor as is evidenced by Ex.M1 to Ex.M4 and that on the expiry of the contract period they ceased to be contract labour and were not permitted to work under the 1st Respondent under any Contractor. Though there had been an order for their regularization of the High Court of Madras in Writ Petitions finally in Writ Appeal the same was set aside. During the interregnum period stay issued by the High Court he continued to be in service under R1 only in compliance of the Court order and while so they were paid wages by the 1st Respondent at the rates of contract wages. So the claim that petitioner was in service till 18-03-2005 is baseless. Petitioner has never been directly engaged under the 1st Respondent and the engagement under the 1st Respondent to comply with the Court

direction cannot result in blossoming of any right. He was signing Attendance Register of the Contractor with no interse employer-employee relationship with the 1st Respondent. These are facts virtually admitted by the workman. That they were permitted to stay in vacant quarters also cannot be found to lead to develop a right in their favour which was on payment of rent. The 1st Respondent is bound by the statutory recruitment rules in force from time to time in the matter of appointment of employees. Annamalai and Soundariammal were not engaged after 2005 and compassionate appointment of any person cannot be called in question by the workman. There is no tangible evidence to substantiate the claim of the workman for any relief. The attempt of workman is for a backdoor entry into the service under the 1st Respondent.

13. The claim of the workman that he is entitled to regularization and consequent reinstatement into service of the 1st Respondent does not stand substantiated at all with any tangible evidence or from any evidentiary facts or circumstances under which it could be so inferred by treating the contract of the 1st Respondent with the 2nd Respondent for providing contract labour for various duties under and within the premises of the first Respondent as being merely sham or nominal. It is in evidence that the workman has been under a Contractor as contract labour and when the contract expired his engagement ceased under the Contractor. The admitted fact that he had worked under the 1st Respondent on the strength of an interim direction obtained from the High Court in Writ or Writ Appeal, just to carry out by the 1st Respondent in compliance of the direction of the High Court and the further fact that the same followed letting out of accommodation on rent and on request, that they were provided with entry passes or identity card etc, for access into the premises, which are necessary for enabling them to discharge their duties, cannot be said to be factors pointing to the fact that they were really direct employees or treated directly as employees under the 1st Respondent. Completion of 240 days or 480 days under the Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workmen) Act, 1981 within 12 months or 24 months respectively cannot be of any benefit to the workman to claim any reinstatement or regularization under the 1st Respondent in the case of even violation of Section-25F of the ID Act, which he may avail if a proper case is made out against his Contractor, the 2nd Respondent. Therefore the claim of the petitioner for regularization under the 1st Respondent is not legal and justified. He is not entitled to any relief. For the laches, if any, on the part of the 2nd and 3rd Respondent, now ex-parte in not paying the PF benefit to the petitioner during the contract period, i.e. upto expiry of the labour contract from the date of appointment to the extent the 2nd and 3rd Respondent are liable the petitioner is entitled to realize the same from them. The petitioner is not entitled to any relief from the 1st Respondent other than the above realizable from the 2nd and 3rd Respondent.

The action of 1st Respondent in not regularizing the service of the workman is, therefore, only legal and justified.

14. The reference is answered accordingly.

(Dictated to the PA, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 27th July, 2011)

A.N. JANARDANAN, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner : WW1, Sri R. Ravi

For the 2nd Party/Management: MW1, Sri M. Mathivanan

Documents Marked :

From the Petitioner's side

Ex.No.	Date	Description
Ex.W1	22-09-1998	Order of the Respondent
Ex.W2	19-06-1998	Order of the Hon'ble High Court
Ex.W3	18-03-2005	Order in WA
Ex.W4	01-01-2000	Memorandum
Ex.W5	18-03-2005	Memorandum
Ex.W6	31-12-2003	Entry Pass
Ex.W7	11-09-2005	Petitioner representation
Ex.W8	19-09-2005	2A Petition
Ex.W9	14-09-2006	Rejoinder
Ex.W10	24-08-2006	Reply of the 1st Respondent
Ex.W11	14-02-2007	RLC findings

On the Management's side

Ex.No.	Date	Description
Ex.M1	17-03-1994	Agreement entered into between the Party-II and III.
Ex.M2	15-09-1994	Agreement entered into between the Party II and III.
Ex.M3	24-03-1995	Agreement entered into between Party-II and III.
Ex.M4	02-04-1996	Agreement entered into between Party-II and III.
Ex.M5	-	Letter of renewal from time to time.
Ex.M6	17-03-2005	Letter from personal department with notification dated 11-02-2005.
Ex.M7	19-06-1998	Order passed in WP Nos. 2719 and 3407 to 3413/98 on the file of Hon'ble High Court, Madras.
Ex.M8	14-03-1998	Order passed in WA Nos. 1048 to 1052 and 1092 to 1094 of 1998 on the file of Hon'ble High Court, Madras.

नई दिल्ली, 16 अगस्त, 2011

का.आ. 2463.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार

भारतीय विमानपत्तन प्राधिकरण, सेलम के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 29/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-8-2011 को प्राप्त हुआ था।

[सं. एल-11012/3/2007-आई आर (एम)]
जोहन तोपनो, अवर सचिव

New Delhi, the 16th August, 2011

S.O. 2463.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 29/2007) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the industrial dispute between the employers in relation to the management of Air Port Authority of India Ltd. (Salem) and their workman, which was received by the Central Government on 16-8-2011.

[No. L-11012/3/2007-IR (M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Wednesday, the 27th July, 2011

Present: A.N. JANARDANAN, Presiding Officer

Industrial Dispute No. 29/2007

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Airport Authority of India and their Workman)

BETWEEN

Sri Thangaraj : 1st Party/Petitioner
S/o Muthu @ Muthusamy
Kamalapuram Colony,
Dharmapuri Main Road,
Kamalapuram PO,
Omalar Taluk,
Salem Distt.

Vs.

1. The Airport Officer : 2nd Party/1st Respondent
Airport Authority of India
Ltd. Salem Airport,
Salem Distt.
2. M/s. New Everest Security: 2nd Party/2nd Respondent
Service Prop. KM. Krishnan,
Salem
3. The Managing Director: 2nd Party/3rd Respondent
M/s. New Everest Security
Service, Salem

APPEARANCE :

For the Petitioner	: M/s. Balan Haridas, Advocates
For the 2nd Party/ 1st Management	: M/s. Sree and Associates, Advocates
For the 2nd Party/ 2nd Management	: Set Ex-parte
For the 2nd Party/ 3rd Management	: Set Ex-parte

AWARD

The Central Government, Ministry of Labour vide its Order No. L-11012/3/2007-IR (M) dated 18-06-2007 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

“Whether the action of the management of Airport Authority of India in not regularizing the services of Sri Thangaraj is legal and justified. If not, what relief is the workman entitled for?”

2. After the receipt of Industrial Dispute, this Tribunal has numbered it as ID 29/2007 and issued notices to both sides. The petitioner entered appearance through his Advocate and filed claim statement and on the other hand, the Respondent has not appeared either personally or through their representative even after two notices. Accordingly, this tribunal on 28-08-2007 passed an ex-parte award holding that the petitioner is entitled to the reinstatement into service followed by regularization.

3. As per order dated 19-12-2007 on IA 67/2007 the ex-parte order was set aside and the Respondent entered appearance through Advocate. Petitioner then filed Additional Claim Statement and 1st Respondent filed Counter and again the petitioner filed Reply Statement. Afterwards as per order dated 22-03-2010 on IA 78/2009, 2nd and 3rd Respondents were impleaded who though served with the notice were called absent and set ex-parte.

4. The allegations in the claim statement is briefly as follows:

The petitioner was appointed as watch and ward by one, New Everest Security Services in the year 1994 and the work was allotted by the Respondent/Management. The petitioner signed in the attendance register maintained by the Respondent and was also getting the salary from the Respondent/Management. The petitioner and 9 others thus employed by the contractor were under the impression that the contractor would renew the contract every year but to their surprise the contract of the contractor which expired in the year 1998 and was not renewed. The petitioner fearing of his termination filed a Writ Petition before the Hon'ble High Court which was numbered as WP No. 2719, 3407 of 1998 and WMP No. 4041 and 5070 to 5076/1998 and in that the Hon'ble High Court directed the Respondent that they should be provide the work to the petitioner and other 9 persons and also

further directed that they should be regularized in the services. After that the Respondent/Management has called the petitioner and other workers and report for duty on contract basis by its Order No. AAI/NAD/SM/EB. 15/329 dated 21/22-9-1998. The work allotted to the petitioner and others is not only watch and ward but also the preliminary nature of work and the work is perennial in nature which is very essential and without which, the Airport Operation of landing and taking of flights cannot be possible. While so, on 18-03-2005, the petitioner was not admitted to enter into the Airport and not even permitted to meet the Airport Officer. The petitioner was not given any notice oral or written before such termination of his services and the Respondent has also employed certain other workers for doing the same work in the Airport. This action of the Respondent is illegal, no nest in law. They have also issued a letter to the petitioner to vacate the quarters immediately. The petitioner learned that the Respondent/Management had preferred an appeal against the orders of the Writ Petition and it had obtained an order in their favour by concealing the real facts. Now the action of the Respondent in terminating the services of the petitioner is illegal and against the mandatory provisions of the Industrial Disputes Act. Therefore, the petitioner prays this Tribunal to reinstate him in service with back-wages from the date of termination viz. 18.03.2005 and to regularize the services of the petitioner in the Respondent/Management and also for consequential benefits.

5. In the Additional Claim Statement the following contentions are raised :

S/Sri M. Kalaikovan, Annamalai, R. Ravi, Kumar @ Ammichi, S.A. Palanisamy, Arumugam, Perumalsamy, M. Thangaraj, and Soudariammal were directly employed in Airport at Salem of whom the first 6 persons were Watch and Ward and the other 3 were Scavengers with a payment of Rs. 2,590 and Rs. 1,632 per month respectively for each group. They were working in 3 shifts without holiday throughout the year as employed continuously since 1994 till 18-03-2005 when they were orally terminated. Of them Annamalai and Soundariammal are still working in the Airport with wages paid in fictitious names. Afterwards they employed 3 fresh hands viz. Ramesh, Yoganandham and Sivaji Rao to do the work of the petitioners in violation of Section-25H of the ID Act. Petitioner has worked for more than 240 days continuously within a period of 12 calendar months immediately prior to termination. Section-25F of the ID Act was not complied with. He has also worked for more than 480 days continuously within a period of 24 months. He is entitled to be made permanent under Section-3 of the Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workmen) Act, 1981. The petitioner and persons similarly placed like him were directly working under the Respondent doing various categories of duties.

Respondent was paying bonus every year to him. Petitioner was not covered under ESI and EPF MP Act though they are covered under it. Respondent tried to make it appear that petitioner and similar others are employed through Contractor. The contract is only sham and nominal from 1998. The contract was also discontinued. Respondent will be in need of further manpower due to expansion and development of the Airport. Petitioner is suffering without employment. He is to be ordered to be reinstated by regularizing his services with full back wages and all benefits.

6. The 2nd and 3rd Respondent being set ex-parte no counter statement was filed.

7. The allegations in the Counter Statement of the 1st Respondent briefly read as follows:

The Respondent is concerned with the work being done only from the Contractor. The petitioner is only concerned with the Contractor only based on their understanding. It is denied that petitioner with similar others is doing perennial work. The allegations are with ulterior motives with some vested interest to which he is not entitled. He cannot make any claim against the Respondent. Petitioner was never engaged by the 1st Respondent. He is not entitled to any notice from it. There is no privity of contract between him and 1st Respondent. That payments were made in fictitious names is baseless. The claim is to be dismissed.

8. The Reply Statement averments of the petitioner in a nutshell are as follows:

The so-called Contractor was only a name lender and the contract a smokescreen to deprive legitimate benefits to the petitioner.

9. The evidence consists of the oral evidence of WW1 and Ex. W1 on the petitioner's side and the testimony of MW1 and Ex. M1 to Ex. M11 on the Respondent's side.

10. Points for consideration are:

- (i) Whether the action in not regularizing the service of Sri Thangaraj is legal and justified?
- (ii) To what relief the concerned petitioner is entitled?

Points (i), (ii)

11. Heard both sides. Perused the records, documents and the common written arguments on behalf of the petitioners and the written arguments on behalf of the 1st Respondent. It is argued on behalf of the petitioner that the petitioner-workman has been proved to have been directly employed by the 1st Respondent and was not contract labour and he is entitled to an order for regularization and reinstatement into service with all benefits.

12. The contra arguments on behalf of the Respondent are that the petitioner was engaged only as contract labour under the 2nd Respondent-contractor as is evidenced by Ex. M1 to Ex. M4 and that on the expiry of

the contract period they ceased to be contract labour and were not permitted to work under the 1st Respondent under any Contractor. Though there had been an order for their regularization of the High Court of Madras in Writ Petitions finally in Writ Appeal the same was set aside. During the interregnum period stay issued by the High Court he continued to be in service under R1 only in compliance of the Court order and while so they were paid wages by the 1st Respondent at the rates of contract wages. So the claim that petitioner was in service till 18-3-2005 is baseless. Petitioner has never been directly engaged under the 1st Respondent and the engagement under the 1st Respondent to comply with the Court direction cannot result in blossoming of any right. He was signing Attendance Register of the Contractor with no *interse* employer-employee relationship with the 1st Respondent. These are facts virtually admitted by the workman. That they were permitted to stay in vacant quarters also cannot be found to lead to develop a right in their favour which was on payment of rent. The 1st Respondent is bound by the statutory recruitment rules in force from time to time in the matter of appointment of employees. Annamalai and Soundariammal were not engaged after 2005 and compassionate appointment of any person cannot be called in question by the workman. There is no tangible evidence to substantiate the claim of the workman for any relief. The attempt of workman is for a backdoor entry into the service under the 1st Respondent.

13. The claim of the workman that he is entitled to regularization and consequent reinstatement into service of the 1st Respondent does not stand substantiated at all with any tangible evidence or from any evidentiary facts or circumstances under which it could be so inferred by treating the contract of the 1st Respondent with the 2nd Respondent for providing contract labour for various duties under and within the premises of the first Respondent as being merely sham or nominal. It is in evidence that the workman has been under a Contractor as contract labour and when the contract expired his engagement ceased under the Contractor. The admitted fact that he had worked under the 1st Respondent on the strength of an interim direction obtained from the High Court in Writ or Writ Appeal, just to carry out by the 1st Respondent in compliance of the direction of the High Court and the further fact that the same followed letting out of accommodation on rent and on request, that they were provided with entry passes or identity card etc. for access into the premises, which are necessary for enabling them to discharge their duties, cannot be said to be factors pointing to the fact that they were really direct employees or treated directly as employees under the 1st Respondent. Completion of 240 days or 480 days under the Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workmen) Act, 1981 within 12 months or 24 months respectively cannot be of any benefit to the workman to

claim any reinstatement or regularization under the 1st Respondent in the case of even violation of Section-25F of the ID Act which he may avail if a proper case is made out against his Contractor, the 2nd Respondent. Therefore the claim of the petitioner for regularization under the 1st Respondent is not legal and justified. He is not entitled to any relief. For the laches, if any, on the part of the 2nd and 3rd Respondent, now *ex-parte* in not paying the PF benefit to the petitioner during the contract period, i.e. upto expiry of the labour contract from the date of appointment to the extent the 2nd and 3rd Respondent are liable the petitioner is entitled to realize the same from them. The petitioner is not entitled to any relief from the 1st Respondent other than the above realizable from the 2nd and 3rd Respondent. The action of 1st Respondent in not regularizing the service of the workman is, therefore, only legal and justified.

14. The reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 27th July, 2011).

A.N. JANARDANAN, Presiding Officer

Witnesses Examined :

For the 1st Party/Petitioner : WW1, Sri M. Thangaraj

For the 2nd Party/Management : MW1, Sri M. Mathivanan

Documents Marked :

From the Petitioner's side

Ex.No.	Date	Description
Ex.W1	22-09-1998	Re engagement on the basis of direction of Hon'ble High Court

On the Management's side

Ex.No.	Date	Description
Ex.M1	17-3-1994	Agreement entered into between the Party II and III
Ex.M2	15-9-1994	Agreement entered into between the Party II and III
Ex.M3	24-3-1995	Agreement entered into between Party II and III
Ex.M4	02-4-1996	Agreement entered into between Party II and III
Ex.M5	-	Letter of renewal from time to time
Ex.M6	17-3-2005	Letter from personal department with notification dated 11-2-2005
Ex.M7	19-6-1998	Order passed in WP Nos. 2719 and 3407 to 3413/98 on the file of Hon'ble High Court, Madras
Ex.M8	14-3-2005	Order passed in WA Nos. 1048 to 1052 and 1092 to 1094, of 1998 on the file of Hon'ble High Court, Madras
Ex.M9	29-10-2004	Order passed by the District Munsiff-cum-Magistrate Court, Omalur

Ex. M10 21-2-2005 Letter from Airport Salem to Head Office

Ex. M11 28-2-2005 Telegram from Legal Department
नई दिल्ली, 16 अगस्त, 2011

का.आ. 2464.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय विमानपत्तन प्राधिकरण, सेलम के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 30/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-8-2011 को प्राप्त हुआ था।

[सं. एल-11012/4/2007-आई आर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 16th August, 2011

S.O. 2464.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 30/2007) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the industrial dispute between the employers in relation to the management of Air Port Authority of India Ltd. (Salem) and their workman, which was received by the Central Government on 16-8-2011.

[No. L-11012/4/2007-IR (M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Wednesday, the 27th July, 2011

Present : A.N. JANARDANAN, Presiding Officer

INDUSTRIAL DISPUTE No. 30/2007

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Airport Authority of India and their Workman)

BETWEEN

Sri M. Perumalsamy : 1st Party/Petitioner
S/o Sri Mariappan
Kamalapuram Kizh Colony,
Dharmapuri Main Road,
Kamalapuram PO, Omalur Taluk,
Salem Distt.

Vs.

1. The Airport Officer
Airport Authority of : 2nd Party/1st Respondent
India Ltd.,
Salem Airport,
Salem Distt.

2. M/s. New Everest : 2nd Party/2nd Respondent
Security Service
Prop. K.M. Krishnan,
Salem

3. The Managing Director : 2nd Party/3rd Respondent
M/s. New Everest Security
Service Salem

APPEARANCE:

For the Petitioner : M/s. Balan Haridas, Advocates

For the 2nd Party/ : M/s. Sree and Associates,
1st Management Advocates

For the 2nd Party/ : Set Ex-parte
2nd Management

For the 2nd Party/ : Set Ex-parte
3rd Management

AWARD

The Central Government, Ministry of Labour vide its Order No. L-11012/4/2007-IR(M) dated 18-06-2007 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

"Whether the action of the management of Airport Authority of India in not regularizing the services of Sri M. Perumalsamy is legal and justified. If not, what relief is the workman entitled for?"

2. After the receipt of Industrial Dispute, this Tribunal has numbered it as ID 30/2007 and issued notices to both sides. The petitioner entered appearance through his Advocate and filed claim statement and on the other hand, the Respondent has not appeared either personally or through their representative even after two notices. Accordingly, this tribunal on 28-08-2007 passed an ex-parte award holding that the petitioner is entitled to the reinstatement into service followed by regularization.

3. As per order dated 19-12-2007 on IA 67/2007 the ex-parte order was set aside and the Respondent entered appearance through Advocate. Petitioner then filed Additional Claim Statement and 1st Respondent filed Counter and again the petitioner filed Reply Statement. Afterwards as per order dated 22-03-2010 on IA 78/2009, 2nd and 3rd Respondents were impleaded who though served with the notice were called absent and set ex-parte.

4. The allegations in the claim statement is briefly as follows :

The petitioner was appointed as watch and ward by one, New Everest Security Services in the year 1994 and the work was allotted by the Respondent/Management. The petitioner signed in the attendance register maintained by the Respondent and was also getting the salary from the Respondent/Management. The petitioner and 9 others thus employed by the contractor were under the impression that the contractor would renew the contract every year but to their surprise the contract of the

contractor which expired in the year 1998 and it was not renewed. The petitioner fearing of his termination has filed a Writ Petition before the Hon'ble High Court which was numbered as WP No. 2719,3407 of 1998 and WMP No. 4041 and 5070 to 5076/1998 and in that the Hon'ble High Court directed the Respondent that they should be provide the work to the petitioner and other 9 persons and also further directed that they should be regularized in the services. After that the Respondent/Management has called the petitioner and other workers and report for duty on contract basis by its Order No. AAI/NAD/SM/EB.15/329 dated 21/22-9-1998. The work allotted to the petitioner and others is not only watch and ward but also the preliminary nature of work and the work is perennial in nature which is very essential and without which, the airport operation of landing and taking of flights cannot be possible. While so, on 18-03-2005, the petitioner was not admitted to enter into the Airport and not even permitted to meet the Airport Officer. The petitioner was not given any notice oral or written before such termination of his services and the Respondent has also employed certain other workers for doing the same work in the Airport. This action of the Respondent is illegal, nonest in law. They have also issued a letter to the petitioner to vacate the quarters immediately. The petitioner learned that the Respondent/Management had preferred an appeal against the orders of the Writ Petition and it had obtained an order in their favour by concealing the real facts. Now the action of the Respondent in terminating the services of the petitioner is illegal and against the mandatory provisions of the Industrial Disputes Act. Therefore, the petitioner prays this Tribunal to reinstate him in service with back wages from the date of termination viz. 18-03-2005 and to regularize the services of the petitioner in the Respondent/Management and also for consequential benefits.

5. In the Additional Claim Statement the following contentions are raised:

S/Sri M. Kalaikovan, Annamalai, R. Ravi, Kumar @ Ammichi, S.A. Palanisamy, Arumugam, Perumalsamy, M. Thangaraj, and Soundariammal were directly employed in Airport at Salem of whom the first 6 persons were Watch and Ward and the other 3 were Scavengers with a payment of Rs. 2,590 and Rs. 11,632 per month respectively for each group. They were working in 3 shifts without holiday throughout the year as employed continuously since 1994 till 18-03-2005 when they were orally terminated. Of them Annamalai and Soundariammal are still working in the Airport with wages paid in fictitious names. Afterwards they employed 3 fresh hands viz. Ramesh, Yoganandham and Sivaji Rao to do the work of the petitioners in violation of Section-25H of the ID Act. Petitioner has worked for more than 240 days continuously within a period of 12 calendar months immediately prior to termination. Section-25F of the ID Act was not complied with. He has also worked for more than 480 days continuously within a period of 24 calendar months. He is entitled to be made permanent under Section-3 of the Tamil Nadu Industrial Establishment (Conferment of Permanent Status to

Workmen) Act, 1981. The petitioner and persons similarly placed like him were directly working under the Respondent doing various categories of duties. Respondent was paying bonus every year to him. Petitioner was not covered under ESI and EPF MP Act though they are covered under it. Respondent tried to make it appear that petitioner and similar others are employed through Contractor. The contract is only sham and nominal from 1998. The contract was also discontinued. Respondent will be in need of further manpower due to expansion and development of the Airport. Petitioner is suffering without employment. He is to be ordered to be reinstated by regularizing his services with full back wages and all benefits.

6. The 2nd and 3rd Respondent being set ex-parte no counter statement was filed.

7. The allegations in the Counter Statement of the 1st Respondent briefly read as follows:

The Respondent is concerned with the work being done only from the Contractor. The petitioner is only concerned with the Contractor only based on their understanding. It is denied that petitioner with similar others is doing perennial work. The allegations are with ulterior motives with some vested interest to which he is not entitled. He cannot make any claim against the Respondent. Petitioner was never engaged by the 1st Respondent. He is not entitled to any notice from it. There is no privity of contract between him and 1st Respondent. That payments were made in fictitious names is baseless. The claim is to be dismissed.

8. The Reply Statement averments of the petitioner in a nutshell are as follows:

The so-called Contractor was only a name lender and the contract a smokescreen to deprive legitimate benefits to the petitioner.

9. The evidence consists of the oral evidence of WW1 and the testimony of MW1 and Ex.M1 to Ex.M8 on the Respondent's side.

10. Points for consideration are:

(i) Whether the action in not regularizing the service of Sri M. Perumalsamy is legal and justified?

(ii) To what relief the concerned petitioner is entitled?

Points (i) (ii)

11. Heard both sides. Perused the records, documents and the common written arguments on behalf of the petitioners and the written arguments on behalf of the 1st Respondent. It is argued on behalf of the petitioner that the petitioner-workman has been proved to have been directly employed by the 1st Respondent and was not contract labour and he is entitled to an order for regularization and reinstatement into service with all benefits.

12. The contra arguments on behalf of the Respondent are that the petitioner was engaged only as contract labour under the 2nd Respondent contractor as

is evidenced by Ex.M1 to Ex.M4 and that on the expiry of the contract period they ceased to be contract labour and were not permitted to work under the 1st Respondent under any Contractor. Though there had been an order for their regularization of the High Court of Madras in Writ Petitions finally in Writ Appeal the same was set aside. During the interregnum period stay issued by the High Court he continued to be in service under R1 only in compliance of the Court order and while so they were paid wages by the 1st Respondent at the rates of contract wages. So the claim that petitioner was in service till 18-03-2005 is baseless. Petitioner has never been directly engaged under the 1st Respondent and the engagement under the 1st Respondent to comply with the Court direction cannot result in blossoming of any right. He was signing Attendance Register of the Contractor with no interse employer-employee relationship with the 1st Respondent. These are facts virtually admitted by the workman. That they were permitted to stay in vacant quarters also cannot be found to lead to develop a right in their favour which was on payment of rent. The 1st Respondent is bound by the statutory recruitment rules in force from time to time in the matter of appointment of employees. Annamalai and Soundariammal were not engaged after 2005 and compassionate appointment of any person cannot be called in question by the workman. There is no tangible evidence to substantiate the claim of the workman for any relief. The attempt of workman is for a backdoor entry into the service under the 1st Respondent.

13. The claim of the workman that he is entitled to regularization and consequent reinstatement into service of the 1st Respondent does not stand substantiated at all with any tangible evidence or from any evidentiary facts or circumstances under which it could be so inferred by treating the contract of the 1st Respondent with the 2nd Respondent for providing contract labour for various duties under and within the premises of the first Respondent as being merely sham or nominal. It is in evidence that the workman has been under a Contractor as contract labour and when the contract expired his engagement ceased under the Contractor. The admitted fact that he had worked under the 1st Respondent on the strength of an interim direction obtained from the High Court in Writ or Writ Appeal, just to carry out by the 1st Respondent in compliance of the direction of the High Court and the further fact that the same followed letting out of accommodation on rent and on request, that they were provided with entry passes or identity card etc. for access into the premises, which are necessary for enabling them to discharge their duties, cannot be said to be factors pointing to the fact that they were really direct employees or treated directly as employees under the 1st Respondent. Completion of 240 days or 480 days under the Tamil Nadu Industrial Establishment (Conferment of Permanent

Status to Workmen) Act, 1981 within 12 months or 24 months respectively cannot be of any benefit to the workman to claim any reinstatement or regularization under the 1st Respondent in the case of even violation of Section 25F of the ID Act which he may avail if a proper case is made out against his Contractor; the 2nd Respondent. Therefore the claim of the petitioner for regularization under the 1st Respondent is not legal and justified. He is not entitled to any relief. For the laches, if any, on the part of the 2nd and 3rd Respondent, now ex-parte in not paying the PF benefit to the petitioner during the contract period, i.e. upto expiry of the labour contract from the date of appointment to the extent the 2nd and 3rd Respondent are liable the petitioner is entitled to realize the same from them. The petitioner is not entitled to any relief from the 1st Respondent other than the above realizable from the 2nd and 3rd Respondent. The action of 1st Respondent in not regularizing the service of the workman is, therefore, only legal and justified.

14. The reference is answered accordingly.

(Dictated to the P.A. transcribed and typed by him, corrected and pronounced by me in the open court on this day the 27th July, 2011)

A. N. JANARDANAN, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner : WWI, Sri M. Perumalsamy

For the 2nd Party/Management: MW I, Sri M. Mathivanan

Documents Marked :

From the Petitioner's side

Ex. No.	Date	Description
		Nil

On the Management's side

Ex. No.	Date	Description
Ex.M1	17-03-1994	Agreement entered into between the Party II and III
Ex.M2	15-09-1994	Agreement entered into between the Party II and III
Ex.M3	24-03-1995	Agreement entered into between the Party II and III
Ex.M4	02-04-1996	Agreement entered into between the Party II and III
Ex.M5	—	Letter of renewal from time to time
Ex.M6	17-03-2005	Letter from personal department with notification dated 11-02-2005
Ex.M7	19-06-1998	Order passed in WP Nos. 2719 and 3407 to 3413/98 on the file of Hon'ble High Court, Madras
Ex.M8	14-03-1998	Order passed in WA Nos. 1048 to 1052 and 1092 to 1094 of 1998 on the file of Hon'ble High Court, Madras.

नई दिल्ली, 16 अगस्त, 2011

का.आ. 2465.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय विमानपत्तन प्राधिकरण, सेलम के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चैन्नई के पंचाट (संदर्भ संख्या 28/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-8-2011 को प्राप्त हुआ था।

[सं. एल-11012/2/2007-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 16th August, 2011

S.O. 2465.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 28/2007) of the Central Government Industrial Tribunal/Labour Court, Chennai, now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Air Port Authority of India Ltd. (Salem) and their workman, which was received by the Central Government on 16-8-2011.

[No. L-11012/2/2007-IR (M)]

JOHN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Wednesday, the 27th July, 2011

Present : A. N. Janardanan, Presiding Officer

Industrial Dispute No. 28/2007

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Airport Authority of India and their Workman)

Between

Sri G. Arumugam : 1st Party/Petitioner
S/o Sri Govindan,
Thumbipadi Colony
Thumbipadi PO,
Omair Taluk Salem

Vs.

1. The Airport Officer : 2nd Party/1st
Airport Authority of India Ltd Respondent
Salem Airport, Salem Distt.
2. M/s. New Everest Security : 2nd Party/2nd
Service Prop. K. M. Krishnan Respondent
Salem

3. The Managing Director : 2nd Party/3rd
M/s. New Everest Security Respondent
Service Salem

APPEARANCE:

- | | |
|-------------------------------------|--|
| For the Petitioner | : M/s. Balan Haridas,
Advocates |
| For the 2nd Party/1st
Management | : M/s. Sree and Associates,
Advocates |
| For the 2nd Party/2nd
Management | : Set Ex-parte |
| For the 2nd Party/3rd
Management | : Set Ex-parte |

AWARD

The Central Government, Ministry of Labour vide its Order No. L-11012/2/2007-IR (M) dated 18-06-2007 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

"Whether the action of the management of Airport Authority of India in not regularizing the services of Sri. G. Arumugam is legal and justified. If not, what relief is the workman entitled for?"

2. After the receipt of Industrial Dispute, this Tribunal has numbered it as ID 28/2007 and issued notices to both sides. The petitioner entered appearance through his Advocate and filed claim statement and on the other hand, the Respondent has not appeared either personally or through their representative even after two notices. Accordingly, this tribunal on 28-08-2007 passed an ex-parte award holding that the petitioner is entitled to the reinstatement into service followed by regularization.

3. As per order dated 19-12-2007 on IA 67/2007 the ex-parte order was set aside and the Respondent entered appearance through Advocate. Petitioner then filed Additional Claim Statement and 1st Respondent filed Counter and again the petitioner filed Reply Statement. Afterwards as per order dated 22-03-2010 on IA 78/2009, 2nd and 3rd Respondents were impleaded who though served with the notice were called absent and set ex-parte.

4. The allegations in the claim statement are briefly as follows :

The petitioner was appointed as watch and ward by one, New Everest Security Services in the year 1994 and the work was allotted by the Respondent/Management. The petitioner signed in the attendance register maintained by the Respondent and was also getting the salary from the Respondent/Management. The petitioner and 9 others thus employed by the contractor were under the impression that the contractor would renew the contract every year but to their surprise the contract of the

contractor which expired in the year 1998 and was not renewed. The petitioner fearing of his termination filed a Writ Petition before the Hon'ble High Court which was numbered as WP No. 2719, 3407 of 1998 and WMP No. 4041 and 5070 to 5076/1998 and in that the Hon'ble High Court directed the Respondent that they should provide the work to the petitioner and other 9 persons and also further directed that they should be regularized in the services. After that the Respondent/Management has called the petitioner and other workers and report for duty on contract basis by its Order no. AAI/NAD/SM/EB.15/329 dated 21/22-9-1998. The work allotted to the petitioner and others is not only watch and ward but also the preliminary nature of work and the work is perennial in nature which is very essential and without which the airport operation of landing and taking of flights cannot be possible. While so, on 18-03-2005, the petitioner was not admitted to enter into the Airport and not even permitted to meet the Airport Officer. The petitioner was not given any notice oral or written before such termination of his services and the Respondent has also employed certain other workers for doing the same work in the Airport. This action of the Respondent is illegal, no nest in law. They have also issued a letter to the petitioner to vacate the quarters immediately. The petitioner learned that the Respondent/Management had preferred an appeal against the orders of the Writ Petition and it had obtained an order in their favour by concealing the real facts. Now the action of the Respondent in terminating the services of the petitioner is illegal and against the mandatory provisions of the Industrial Disputes Act. Therefore, the petitioner prays this Tribunal to reinstate him in service with back-wages from the date of termination viz. 18-03-2005 and to regularize the services of the petitioner in the Respondent Management and also for consequential benefits.

5. In the Additional Claim Statement the following contentions are raised :

S/Sri M. Kalaikovan, Annamalai, R. Ravi, Kumar @ Ammachi, S.A. Palanisamy, Arumugam, Perumalsamy, M. Thangaraj and Soudariammal were directly employed in Airport at Salem of whom the first 6 persons were Watch and Ward and the other 3 were Scavengers with a payment of Rs. 2,590 and Rs. 1,632 per month respectively for each group. They were working in 3 shifts without holiday throughout the year as employed continuously since 1994 till 18-03-2005 when they were orally terminated. Of them Annamalai and Soundariammal are still working in the Airport with wages paid in fictitious names. Afterwards they employed 3 fresh hands viz. Ramesh, Yoganandham and Sivaji Rao to do the work of the petitioners in violation of Section-25H of the I.D. Act. Petitioner has worked for more than 240 days continuously within a period of 12 calendar months immediately prior to termination. Section-25F of the I.D. Act was not complied with. He has

also worked for more than 480 days continuously within a period of 24 calendar months. He is entitled to be made permanent under Section-3 of the Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workmen) Act, 1981. The petitioner and persons similarly placed like him were directly working under the Respondent doing various categories of duties. Respondent was paying bonus every year to him. Petitioner was not covered under ESI and EPF MP Act though they are covered under it. Respondent tried to make it appear that petitioner and similar others are employed through Contractor. The contract is only sham and nominal from 1998. The contract was also discontinued. Respondent will be in need of further manpower due to expansion and development of the Airport. Petitioner is suffering without employment. He is to be ordered to be reinstated by regularizing his services with full back wages and all benefits.

6. The 2nd and 3rd Respondent being set ex-parte no counter statement was filed.

7. The allegations in the Counter Statement of the 1st Respondent briefly read as follows :

The Respondent is concerned with the work being done only from the Contractor. The petitioner is only concerned with the Contractor only based on their understanding. It is denied that petitioner with similar others is doing perennial work. The allegations are with ulterior motives with some vested interest to which he is not entitled. He cannot make any claim against the Respondent. Petitioner was never engaged by the 1st Respondent. He is not entitled to any notice from it. There is no privity of contract between him and 1st Respondent. That payments were made in fictitious names is baseless. The claim is to be dismissed.

8. The Reply Statement averments of the petitioner in a nutshell are as follows :

The so-called Contractor was only a name lender and the contract a smokescreen to deprive legitimate benefits to the petitioner.

9. The evidence consists of the oral evidence of WW1 and Ex. W1 to Ex. W7 on the petitioner's side subject to objection that Ex. W2, Ex. W3, Ex. W4, Ex. W5 & Ex. W7 are xerox copies and the testimony of MW1 and Ex. M1 to Ex. M8 on the Respondent's side.

10. Points for consideration are:

- (i) Whether the action in not regularizing the service of Sri G. Arumugam is legal and justified?
- (ii) To what relief the concerned petitioner is entitled?

Points (i), (ii)

11. Heard both sides. Perused the records, documents and the common written arguments on behalf

of the petitioners and the written arguments on behalf of the 1st Respondent. It is argued on behalf of the petitioner that the petitioner-workman has been proved to have been directly employed by the 1st Respondent and was not contract labour and he is entitled to an order for regularization and reinstatement into service with all benefits.

12. The contra arguments on behalf of the Respondent are that the petitioner was engaged only as contract labour under the 2nd Respondent contractor as is evidenced by Ex. M1 to Ex. M4 and that on the expiry of the contract period they ceased to be contract labour and were not permitted to work under the 1st Respondent under any Contractor. Though there had been an order for their regularization of the High Court of Madras, in Writ Petitions finally in Writ Appeal the same was set aside. During the interregnum period stay issued by the High Court he continued to be in service under R 1 only in compliance of the Court order and while so they were paid wages by the 1st Respondent at the rates of contract wages. So the claim that petitioner was in service till 18-03-2005 is baseless. Petitioner has never been directly engaged under the 1st Respondent and the engagement under the 1st Respondent to comply with the Court direction cannot result in blossoming of any right. He was signing Attendance Register of the Contractor with no *interse* employer-employee relationship with the 1st Respondent. These are facts virtually admitted by the workman. That they were permitted to stay in vacant quarters also cannot be found to lead to develop a right in their favour which was on payment of rent. The 1st Respondent is bound by the statutory recruitment rules in force from time to time in the matter of appointment of employees. Annamalai and Soundariammal were not engaged after 2005 and compassionate appointment of any person cannot be called in question by the workman. There is no tangible evidence to substantiate the claim of the workman for any relief. The attempt of workman is for a backdoor entry into the service under the 1st Respondent.

13. The claim of the workman that he is entitled to regularization and consequent reinstatement into service of the 1st Respondent does not stand substantiated at all with any tangible evidence or from any evidentiary facts or circumstances under which it could be so inferred by treating the contract of the 1st Respondent with the 2nd Respondent for providing contract labour for various duties under and within the premises of the first Respondent as being merely sham or nominal. It is in evidence that the workman has been under a Contractor as contract labour and when the contract expired his engagement ceased under the Contractor. The admitted fact that he had worked under the 1st Respondent on the strength of an interim direction obtained from the High Court in Writ or Writ Appeal, just to carry out by the 1st Respondent in compliance of the direction of the High Court and the

further fact that the same followed letting out of accommodation on rent and on request, that they were provided with entry passes or identity card etc. for access into the premises, which are necessary for enabling them to discharge their duties, cannot be said to be factors pointing to the fact that they were really direct employees or treated directly as employees under the 1st Respondent. Completion of 240 days or 480 days under the Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workmen) Act, 1981 within 12 months or 24 months respectively cannot be of any benefit to the workman to claim any reinstatement or regularization under the 1st Respondent in the case of even violation of Section-25F of the ID Act which he may avail if a proper case is made out against his Contractor, the 2nd Respondent. Therefore the claim of the petitioner for regularization under the 1st Respondent is not legal and justified. He is not entitled to any relief. For the laches, if any, on the part of the 2nd and 3rd Respondent, now ex-parte in not paying the PF benefit to the petitioner during the contract period, i.e. upto expiry of the labour contract from the date of appointment to the extent the 2nd and 3rd Respondent are liable the petitioner is entitled to realize the same from them. The petitioner is not entitled to any relief from the 1st Respondent other than the above realizable from the 2nd and 3rd Respondent. The action of 1st Respondent in not regularizing the service of the workman is, therefore, only legal and justified.

14. The reference is answered accordingly.

(Dictated to the PA, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 27th July, 2011)

A. N. JANARDANAN, Presiding Officer

Witnesses Examined :

For the 1st Party/Petitioner : WW1, Sri G. Arumugam

For the 2nd Party/1st : MW1, Sri M. Mathivanan
Management

Documents Marked :

From the Petitioner's side

Ex. No.	Date	Description
Ex.W1	16-09-1998	Copy of the Interim Order in Writ Appeal 1048 to 1052 and 1092 to 1094 of 1998
Ex.W2	22-09-1998	Copy of letter issued by the Respondent
Ex.W3	01-11-2000	Copy of the Memorandum issued by the Respondent
Ex.W4	-	Copy of the entry pass valid till 31-12-2003
Ex.W5	-	Copy of the Daily Permit S.No. C-30621

Ex.W6	14-03-2005	Copy of the order in Writ Appeal 1048 to 1052 and 1092 to 1094.
Ex.W7	-	Copy of the Memorandum issued by the Respondent regarding the cancellation of the residential quarters

Bank of India, and their workmen, received by the Central Government on 17-08-2011.

[No-L-12012/150/2003-IR (B-I),
No-L-12012/151/2003-IR (B-I)]

RAMESH SINGH, Desk Officer

ANNEXURE

On the Management's side

Ex. No.	Date	Description
Ex. M1	17-03-1994	Agreement entered into between the Party II and III
Ex. M2	15-09-1994	Agreement entered into between the Party II and III
Ex. M3	24-03-1995	Agreement entered into between the Party II and III
Ex. M4	02-04-1996	Agreement entered into between the Party II and III
Ex. M5	-	Letter of renewal from time to time
Ex. M6	17-03-2005	Letter from personal department with notification dated 11-02-2005
Ex. M7	19-06-1998	Order passed in WP Nos. 2719 and 3407 to 3413/98 on the file of Hon'ble High Court, Madras
Ex. M8	14-03-2005	Order passed in WA Nos. 1048 to 1052 and 1092 to 1094 of 1998 on the file of Hon'ble High Court, Madras.

नई दिल्ली, 17 अगस्त, 2011

का.आ. 2466.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 163/2003, 183/03) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-8-2011 को प्राप्त हुआ था।

[सं. एल-12012/150/2003-आई.आर. (बी.-1),

सं. एल-12012/151/2003-आई.आर. (बी.-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 17th August, 2011

S.O. 2466.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 163/2003, 183/03) of the Central Government Industrial Tribunal/Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between management of State

BEFORE SHRI J. P. CHAND, PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/66/2004 Date: 9-8-2011.

Party No. 1 : The Chief General Manager,
Majri Area Kuchana of WCL,
Post-Shembule,
Distt. Chandrapur
Maharashtra

Versus

Party No. 2 : Shri Lomesh Maroti Khartad,
General Secretary, National Colliery
Workers Congress, Dr. Ambedkar
Nagar, Ballarpur, PO & Tah, Ballarpur,
Distt. Chandrapur (M.S.)

ORDER

(Dated : 9th August, 2011)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of Western Coalfields Limited of Majri Area of WCL and their workman, Shri Javed Mannan for adjudication, as per letter No. L-22012/261/2003-IR (CM-II) dated 29-6-2004, with the following schedule :—

"Whether the action of the management in relation to Majri Area of Western Coalfields Limited in not allowing Shri Javed Mannan, Linc Helper, New Majri Colliery No. 03 of WCL to join duty from 5-5-2002 to 13-11-2002 is legal and justified? If not, to what relief he is entitled to?"

2. This order arises out of the petition filed by the petitioner, the General Secretary of the union, for withdrawal of the case.

3. The facts necessary for disposal of the petition are as follows :

4. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement and accordingly, the workman, Shri Javed Mannan filed the statement of claim through his union and the management of WCL filed the written statement.

In his statement of claim, the workman prayed to declare the action of the management in not allowing him

to join duty from 5-5-2002 to 13-11-2002 as illegal and unjustified and for payment of full wages and consequential benefits for the said period.

The management of WCL in the written statement denied the allegations made by the workman and pleaded inter-alia that the action of the management is justified and the workman is not entitled for any relief.

5. On 14-7-2011, the Secretary of the union, who has filed the statement of claim, on behalf of the workman filed an application for withdrawal of the case, on the ground that the workman doesn't want to prosecute the same. The advocate for the management made endorsement on the application of his having no objection to the petition.

6. Perused the record. Taking into consideration the facts and the circumstances of the case, the petition is allowed. In view of the petition that the workman is not interested to prosecute the case, it is held that the workman is not entitled for any relief. Hence it is ordered :

ORDER

The action of the management in relation to Majri Area of Western Coalfields Limited in not allowing Shri Javed Mannan, Line Helper, New Majri Colliery No. 03 of WCL to join duty from 5-5-2002 to 13-11-2002 is legal and justified. The workman is not entitled for any relief.

The application dated 14-7-2011 be made a part of the award.

J. P. CHAND, Presiding Officer

नई दिल्ली, 18 अगस्त, 2011

का.आ. 2467.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय डब्ल्यू. सी. एल. के प्रबंधन के संबंध में निरदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण /श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 5/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-8-2011 को प्राप्त हुआ था।

[सं. एल-22012/148/2001-आई आर (सी एम-II)]

डी.एस.एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 18th August, 2011

S.O. 2467.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 05/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure, in the industrial dispute between the management of Western Coalfields Ltd., Coal Estate, and their workmen, received by the Central Government on 18-8-2011.

[No-L-22012/148/2001-IR (CM-II)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE SHRI J. P. CHAND, PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/05/2002

Date: 4-8-2011

Party No.1 : The Chairman -Cum - Managing Director,
Western Coalfields Ltd.,
Coal Estate, Civil Lines,
Nagpur - 440001

Versus

Party No.2 : The Secretary, Lalzanda Coal Mines
Mazdoor Union, C/o. WCL Coal Estate,
Civil Lines, Nagpur - 440001

AWARD

(Dated : 4th August, 2011)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of Western Coalfields Limited and their workman, Shri N.K. Dubey, Asstt. Machineman, for adjudication, as per letter No.L-22012/148/2001-IR (CM-II) dated 28-1-2002, with the following schedule:—

"Whether the action of the management of WCL rep. by Chairman-Cum-Managing Director, WCL, Nagpur in dismissing Sh. N. K. Dubey, Asstt. Machineman from services w.e.f. 21-09-1994 is legal and justified? If not, to what relief is the workman entitled to?"

2. The case of the workman as projected in the statement of claim by the union is that he was initially appointed as a trainee mechanic in WCL in the year 1985 and while he was working as an Assistant Machineman grade -E at the printing press of WCL Headquarters, Nagpur, a totally fabricated, concocted and false charge sheet dated 15-05-93 was submitted against him and inspite of challenging the charge sheet that the same was not issued by the competent authority and the contents of the charge to be far away from truth, a departmental enquiry was conducted against him by appointing Shri J.M. Sood as the enquiry officer and in the enquiry, inspite of his demand, certain necessary documents required for his defence were not supplied, in violation of principles of natural justice, and in addition to the charge sheet dated 15-05-1993, another charge sheet dated 27-08-93 being signed by Shri D.C. Garg, the officer on Special Duty (P.R.) was issued against him and on the basis of the departmental enquiry conducted against him, he was dismissed from services vide order dated 20-09-1994 and the order of dismissal was in utter violation of the principles of natural justice, as no second show cause notice was issued to him before the passing of the dismissal order. It is further pleaded by the union that the charge sheet dated 15-05-93 was signed by

the Manager (Press), who was not the competent authority to issue the charge sheet and as such, the charge sheet was invalid and unlawful and as such, no disciplinary action could have been taken basing on the invalid charge sheet and the certified Standing Orders for WCL came into force w.e.f. 27-02-1993 and as such all the disciplinary proceedings should have been done under the provisions of the Certified Standing Orders and as such, the charge sheet dated 15-05-1993 should have been issued under the Certified Standing Orders but the said charge sheet was issued haphazardly and no one knows under what Standing Orders, the said charge sheet was issued and according to the charge sheet dated 15-5-1993, the alleged occurrence had been place on 17-3-1993, but in the enquiry, no evidence was produced to prove that the occurrence had taken place on 17-03-1993 and he was not given fair and lawful opportunity to defend his case, because the documents demanded by him were not supplied to him and the documents asked for were very much relevant to the enquiry, as the same were concerning the machine-wise daily production reports and one of the charges against him was giving less production and as per charge, on 17-3-1993, he did not work in spite of the advice of Shri Francis, Machineman and there was no production from Machine no. 1 on that day but the said contention of the management was disproved by their own witness, and Shri Francis in his statement had stated that on the concerned date, machine no. 1 produced 13000 prints and the machine did not work for one hour resulting in less production of 3000 papers only and from such evidence, the contention in the charge sheet mentioning "nil" production can be treated to have been contradicted by the witness and from the evidence recorded during the enquiry, it can be held that the written complaint alleged-to be submitted by Shri Francis against him is an afterthought and might have been written, under pressure and the enquiry officer concluded the enquiry without doing analytical study of the evidence produced during the enquiry and violating the principles of natural justice and the enquiry officer allowed Shri Francis to be examined again on 09-08-1993, though he had already been examined as M.W. 1 on 28-7-1993 and on 9-8-1993, Shri Francis stated that there was no output from the concerned machine on 2-4-1993, as the same did not work, but the records produced by the management in the enquiry show that there was production from the concerned machine on 2-4-1993 and from the same, it can be held that the evidence of Shri Francis is false, concocted and immaterial and the enquiry officer did not conduct the enquiry properly and the enquiry was conducted in a casual manner and the attitude of the enquiry officer was pro-management and he was not impartial in conduction of the enquiry and the whole disciplinary action against him is vitiated, motivated, act of victimization and unfair labour practice and though he was posted as assistant Machineman, grade-E, he was directed to do the duty of Machineman-grade-D and when he

insisted for payment of higher scale of pay of grade-D, Machineman, he was threatened of losing his job by the manager press and after settlement regarding his claim for higher scale with the intervention of the union, when he insisted for his placement in higher pay scale, the manager (Press) issued the charge sheet with the ulterior motive to spoil his service record and the copy of the enquiry report was not supplied to him and the non supply of the enquiry report renders the dismissal order nonest, illegal and arbitrary and the said order is liable to be quashed and set aside and he is entitled for reinstatement in service. Prayer has been made for the reinstatement of the workman in service with continuity and full back wages and all consequential benefits.

3. The party no. 1 in the written statement has pleaded inter-alia that the dismissal of the workman had taken place on 21-9-1994 and the industrial dispute was raised on 15-10-2000, after a gap of nearly six years, 'without advancing plausible reason for such belated action and as such, the same is required to be considered at the time of answering the reference and the charge sheet issued against the workman was not false, fabricated and concocted and the enquiry was conducted by Shri J.M. Sood after his appointment as such and even though, it was mentioned in the charge sheet that it was issued with the approval of the competent authority, Shri Sen by virtue, of being the Manager (Press), which was a separate establishment, functioning under his administration and supervisory control, he had the authority to issue the charge sheet and at the time of issuance of the charge sheet, the letter regarding application of the Certified Standing Orders was not ordered, hence, it cannot be said that the charge sheet was issued haphazardly and without seriousness and as the charge sheet dated 15-5-1993 was issued prior to the directive dated 15-7-1993 for following the Certified Standing Orders, the closure quoted in the charge sheet were from the Model Standing Orders, applicable at the headquarters prior to coming in to operation of the new Standing Orders and when the second charge sheet was issued on 27-8-1993, the circular to follow the new Standing Orders had already been issued on 15-7-1993, therefore the clause of the new Standing Order was quoted in the charge sheet and otherwise also, its action cannot be nullified merely on the technical ground, so long the charges were clearly spelt out in the charge sheet and Clauses of both the Standing Orders applied against the workman are identical and in the charge sheet one of the incident was stated to have been taken place on 17-3-1993, which was due to oversight and clerical error and the said date was corrected to 16-3-1993, during the course of enquiry with due intimation to the workman and all relevant documents were supplied to the workman and voluminous documents were allowed to be inspected by the workman during the course of enquiry and such facts have been reflected in the enquiry proceedings and the main charge against the

workman was that he had refused to do the work of loading of papers in the machine on 16-3-1993 and Shri Francis had stated that the workman had refused to carry out the orders for which the machine remained ideal and Shri P. U. Singh, Asstt. Foreman (Press) had not, deposed in the enquiry that Shri Francis submitted the written report on 16-3-1993 and infact, he had stated that Shri Francis met him on 16-3-1993 and informed him about the refusal of the workman to work and he had further stated that he asked Shri Francis to give a written complaint and as such, there is no contradictions in the statements of Shri Francis and Shri P.U. Singh about the report and Shri Francis gave his evidence as M.W.1 regarding the incident dated 16-3-1993 on the first occasion and on 9-8-1993, he deposed about the incident dated 2-4-1993, as he was the witness in regard to the incidents of both the dates and as such, there was nothing unjustified on the part of the enquiry officer allowing Shri Francis to appear as a witness on two dates and Shri P.U. Singh had been examined on 9-8-1993 as witness No. 2 in regard to the incident of 16-3-1993 and Shri K.C. Bodle had been examined as MW-2 in regard to the incident dated 2-4-1993 and on perusal of the charge sheet, it can be found that the charges against the workman were in regard to two dates, i.e. 17-3-1993 (corrected as 16-3-1993) and 2-4-1993 and Shri P.U. Singh was examined as MW2 in regard to the incident dated 16-3-1993 and Shri Bodle was examined as MW2 for the incident of 2-4-1993 and as such, there was no irregularity in the enquiry and the workman was not victimized and there is no question of unfair labour practice or motivated action against him and in regard the engagement of co-worker, as the Certified Standing Order is more beneficial than the Model Standing Orders, the enquiry officer adopted the more favourable provision to the workman in regard to engagement of co-worker and as such, it cannot be said that the enquiry officer was unreasonable and in both the Standing Orders, there is no provision for allowing a co-worker who is an outsider and functions of the Machineman and Asstt. Machineman are laid down in the cadre scheme and question of payment of wages is no way relevant to the disciplinary proceedings against the workman and the allegation that the Manager (Press) threaten the workman for withdrawal of the case is totally false and baseless and the enquiry report was sent to the workman by registered post, but he refused to receive the same. It is further pleaded by the party no.1 that the departmental enquiry held against the workman is proper and valid and by following the principles of natural justice and the charge sheet dated 15-5-1993 containing the details of the charges was served on the workman and the workman submitted his explanation to the charge sheet on 17-5-1993 and the workman attended the enquiry on 15-6-1993 with his co-worker and on 3-7-1993 the enquiry officer read over the charges to the workman in presence of his co-worker and the workman did not admit the charges and thereafter, the enquiry officer explained the procedure

of enquiry and every reasonable opportunity was given to the workman to defend himself in the enquiry and inspite of giving several opportunities to the workman for cross-examination of the witnesses for the management, the workman declined to cross-examine them and the workman was also given several chances to adduced defense evidence, he did not avail the same and adopted the attitude of creating obstacle in the enquiry by raising technical objections from time to time and the findings of the enquiry officer are based on materials on record and the punishment imposed is proportionate to the charges proved against him.

4. As this is a case of dismissal of the workman from services after holding a departmental enquiry, the validity of the departmental enquiry was taken as a preliminary issue for consideration and as per order dated 26-10-2006, the departmental enquiry was held to be proper, fair and valid.

5. At the time of argument, it was submitted by the learned advocate for the workman that the evidence adduced by the management in the enquiry is contradictory and management has not been able to prove the charges against the workman and the findings of the enquiry officer are not based on the evidence on record and therefore are perverted and the enquiry officer is required to arrive at a finding on the basis of the material brought on record by the parties and as there is no concrete material and as the charges have not been proved, the finding of the enquiry officer that the charges have been proved against the workman is unfounded and the punishment imposed against the workman is shockingly disproportionate to the charges leveled against him. In support of such contentions, reliance has been placed by the learned Advocate for the workman on the decision reported in 2010 (1) Mh.LJ-108 (Maharashtra State Road Corporation Bhandara Vs. Sheikh Rahman Sheikh Karim).

6. In reply, it was submitted by the learned advocate for the management that the workman has not challenged the report of the enquiry officer on the ground of perversity and as such, the findings of the enquiry officer can be held not to be perverted and the findings of the enquiry officer are based on the evidence adduced in the enquiry and documents filed before him and he has not relied upon any extraneous consideration and he has analyzed the evidence in a rational and objective manner and the workman has made allegation that he was victimized, as he demanded his promotion and regularization as machine operator and the manager (press) out of grudge submitted the false charge sheet against him which was an act of victimization and unfair labour practice, but the party No. 1 has denied such allegations and such allegations were not taken by the workman in his reply filed to the charge sheet and in the departmental enquiry and he had also not mentioned in his reply to the charge sheet dated 17-5-1993 that the

charges leveled against him were false and without any basis and in the enquiry, he did not raise the issue and did not lead any evidence in that respect though the onus to plead and prove of the same was on him and as such, the allegations cannot be accepted and so for the non supply of the enquiry report is concerned, the enquiry report was sent to him by the Manager (Press) vide his letter dated 9/10-8-1994, but the workman refused to receive the same, for which the report was sent by registered post, but the workman did not claim the same and there is no provision in the Standing Orders to issue second show cause notice and as such, there was no question of issuing the second show cause notice and the workman neither in the statement of claim nor anywhere else has pleaded that the punishment of dismissal from service imposed upon him is disproportionate to the charges much less shockingly disproportionate to the charge and the party No. 1 in paragraph 39 of the written statement has made a positive assertion that the punishment of dismissal awarded to the workman is legal and proportionate to his misconduct. It was further submitted that the workman had repeatedly violated the norms of discipline by refusing to put paper in the printing machine, leading to loss of production and he also refused to perform his duty, inspite of instruction from his superiors and the manner of refusal and attitude of the workman was highly injurious to the discipline of the press and the incidence happened during the working hours in presence of all the employees and as the misconduct had assumed the character of repetitive nature and had very serious effect on the general discipline, the same could not be taken lightly and the workman had issued with another charge sheet for almost similar type of misconduct, but the departmental enquiry could not be completed, as he was dismissed from the services. It was further urged by the learned advocate for the party No.1 that as regard the legal issue of intervention with the action of the employees by the Tribunal or other Judicial Authorities, it has been held by the Hon'ble Supreme Court that unless the punishment is shockingly disproportionate to the charges, the same should not be interfere with. In support of such contentions, reliance has been placed by the learned advocate for the party No.1 in the decisions reported in 1996 LAB.I.C. 462 (B.C. Chaturvedi Vs. Union of India), 2003 LAB.I.C. 757 (Regional Manager UPSRTC Vs. Hotilal), and 2005 LAB.I.C.-4158 (V. Ramana Vs. APSRTC), 2005 LAB.I.C.-854 (Bharat Forge Co. Ltd. Vs. U.M. Nakte).

7. Peruse the record including the statement of claim, written statement and documents filed by the parties. Admittedly there is no direct challenge in the statement of claim regarding the perversity of the findings and the quantum if punishment. However, on perusal of the documents of the departmental proceedings, it is found that the enquiry officer has analyzed the evidence on record in a rational way. The workman did not cross-examine the

witnesses examined on behalf of management in his presence and their evidence remained unchallenged. It is well settled that strict rules of evidence are not applicable to the departmental proceedings and in a departmental proceeding, it is not necessary to prove the charges beyond all reasonable doubts and the charges are to be proved on the basis of preponderance of probability. In this case, even though there are some minor contradictions in the evidence of the witnesses, it is clear from their evidence that the workman did not obey the directions of his superiors while performing his duty and due to the action of the workman there was less production in the printing press. It is also clear from the materials on record that the charges leveled against the workman were well proved. Hence, it is held that the findings of the enquiry officer are not perverted.

So for the question of punishment is concerned, it is found from record that the workman was repeatedly disobeying the directions of his superiors and also refusing to work as per there direction and due to the refusal of the workman the production of the printing machine was decreasing. The misconduct of the workman has been proved in a properly held departmental enquiry. So taking the facts and circumstances of the case and the submissions made by the learned advocates for the parties into consideration and applying the principles enunciated by the Hon'ble courts in the decisions, on which reliance has been placed by the parties, I hold that the punishment imposed against the workman is not shockingly disproportionate to the proved misconduct in a properly departmental enquiry and there is no scope to interfere with the punishment.

In view of the findings as mentioned above the affidavit filed by the workman on 25-5-2011 in regard to his not in gainful employment and the two decisions reported in 2010(4) BOM. CR-416 (V.I.A. Urdu Education Society Vs. M.A. Abbas Ali) and 2010 (1) Mh. LJ 587 (S.V. Deshpande Vs. Presiding Officer), regarding payment of back wages need no consideration. Hence, it is ordered:—

ORDER

The action of the management of WCL rep. by Chairman-Cum-Managing Director, WCL, Nagpur in dismissing Sh. N.K. Dubey, Asstt. Machineman from services w.e.f. 21-9-1994 is legal and justified the workman is not entitled to any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 18 अगस्त, 2011

का.आ. 2468.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक

अधिकरण नागपुर के पंचाट (संदर्भ संख्या, 66/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-8-2011 को प्राप्त हुआ था।

[सं. एल-22012/261/2003-आई आर (सी एम II)]

डी.एस.एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 18th August, 2011

S.O. 2468.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 66/2004, of the Central Government Industrial Tribunal-Cum-Labour Court, Nagpur as shown in the Annexure, in the industrial dispute between management of Majri Area Kuchana of Western Coalfields Limited, and their workmen, received by the Central Government on 18-8-2011.

[No. L-22012/261/2003 IR (CM-II)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

PRESIDING OFFICER : SHRI MOHD. SHAKIR HASAN

CASE NO. CGIT/LC/R/163/2003

Shri Liladhar Prajapati,
Bawdi Mohalla, Silwani,
Distt. Raisen (MP)

Workman

Versus

The Assistant General Manager,
State Bank of India, Region-I,
Zonal office, Hamidia Road,
Bhopal (MP)

Management

CASE NO. CGIT/LC/R/183/03

Shri Ajay Rai,
Bawdi Mohalla, Silwani,
Distt. Raisen (MP)

Workman

Versus

The General Manager,
Hasdeo Sub Area of SECL,
PO South Jhagrakhand Colliery,
Distt. Surguja

Management

AWARD

Passed on this 5th day of July, 2011

1. (a) The Government of India, Ministry of Labour vide its Notification No. L-22012(150)/2003-IR(B-I) dated 26-9-2003 has referred the following dispute for adjudication by this tribunal :—

“ Whether the action of the management of Asstt. General Manager, State Bank of India, Region-I, Bhopal in terminating the services of Shri Liladhar Prajapati w.e.f. 18-1-2001 and not regularizing him is justified? If not, to what relief the workman is entitled for?”

(b) The Government of India, Ministry of Labour vide its Notification No. L-22012(151/2003-IR(B-I) dated 21-11-2003 has referred the following dispute for adjudication by this tribunal :

“ Whether the action of the management of Asstt. General Manager, State Bank of India, Reg.-I, Bhopal in terminating the services of Shri Ajay Rai w.e.f. 18-1-2001 and not regularizing him is justified? If not, to what relief the workmen is entitled for?”

2. Both the references are taken up together as both are based on common subject matter. The workmen appeared in the reference cases separately and filed their Written Statement separately.

3. The case of the workmen, in short, is that they were engaged on temporary basis from 16-9-1989 to 31-12-1990 with the Bank at Silwani Branch. It is stated that there was a Bipartite Settlement between the Bank Management and All India SBI Staff Federation whereby those daily wages employees who had worked in the Bank from 1-7-1975 to 14-8-1991 for a stipulated period were to be considered for regular appointments. These workmen submitted their applications alongwith supporting certificates including certificate of educational qualification. They were called for interview by the management Bank and were selected. The offer of appointments were made to them but subsequently the offer was revoked on the ground that they had suppressed higher qualification though they had furnished certificate at the time of application showing it that they were over qualified. On the above grounds, the references be answered in favour of the workmen.

4. The management appeared and filed Written Statements separately in both the reference cases. The case of the management, interalia, is that the workmen were admittedly employed on purely daily wages as Messenger/Badli watchman at the Silwani Branch of the Bank. The periods of both workmen are specifically stated in their Written Statements. It is stated that admittedly the Bank and Staff Federation entered into a settlement for giving chance to the temporary/casual workers for permanent appointment in the Bank Service. The Management Bank advertised in the newspapers for furnishing application on the prescribed formats for such daily wages workers who had worked for the stipulated period w.e.f. 31-7-88 to 14-8-91 as provided under the settlement. These workmen also submitted their applications to the Bank. In the application the workmen

disclosed their educational qualification as VIIIth pass. They were offered appointment in the Bank vide letters dated 1-11-2000. Subsequently the Bank came to know that they had already passed High School Certificate Examination from Govt. Boys High School, Silwani before entering into initial employment as casual employees in the Bank. They were thus not eligible for appointment in the Bank as overqualified. The management Bank sought explanation from them vide letter dated 26-12-2000. They submitted their reply on 5-1-2001. The management Bank immediately issued cancellation of the Bank's offer of appointment on 18-1-2001. It is stated that they were not eligible for permanent appointment in the bank according to the settlement dated 17-11-1987. It is alleged that these workmen had never submitted their educational qualification at the time of their initial engagement. On these grounds, it is submitted that the action of the management is just and proper and the same be answered accordingly.

5. The following issues are framed for adjudication-

I. The whether the action of the management in terminating the services of the workmen w.e.f. 18-1-2001 and not regularizing them is justified?

II. To what relief the workmen are entitled?

6. Issue No. I

Before discussing Issue No. I, it appears to be justified to enumerate the admitted facts of the parties.

1. These workmen were employed on daily wages as Messenger/Badli watchman at the Silwani branch of the Bank during the period of 31-7-1988 to 14-8-91.

2. There was a Bipartite settlement between the management Bank and All India SBI Staff Federation for giving chance to the temporary/casual workers for permanent appointment in the Bank Service who had worked for the stipulated period w.e.f. 31-7-1988 to 14-8-1991 as provided under the settlement.

3. The bank advertised in the newspapers for furnishing applications on the prescribed formats for such daily wages workers.

4. These workmen also submitted applications for permanent appointment in the Bank Service.

5. They were called for interview and were interviewed.

6. They were offered appointments in the management Bank vide letters dated 1-11-2000.

7. Subsequently the management Bank asked explanation from them vide letter dated 26-12-2000 that they had already passed High School Certificate Examination before entering into initial employment as casual employees.

8. The management Bank issued cancellation of the Bank's offer of appointment vide letters dated 18-1-2001 as they were said to be over qualified for the post.

7. Now the only important question is as to whether the action of management in terminating the offer of appointment of the workmen on account of over qualified for the post is valid and justified and the workmen had suppressed the said fact. According to the workmen, they filed certificates of their educational qualification alongwith the applications and they were found eligible and therefore the management Bank called them for interview. They had not concealed any fact that they had not already passed High School certificate Examination. It is stated that the denial of regular employment to them by the management Bank is not just, proper and fair whereas the management's contention is that they had concealed the fact in their applications that they had overqualified and had not furnished certificate of educational qualification showing the fact that they had passed High School Certificate Examination before entering into the initial engagement as casual workers.

8. Now the evidence is to be examined of the parties. Both the workmen have adduced oral and documentary evidence separately in both the references. In R/163/03, the workman Shri Liladhar Prajapati has himself examined in the case. He has stated that he had filed application on 10-9-89 wherein he had disclosed that he had passed Class XIth. He has stated that he had not concealed his educational qualification from the management though it was known to the management from the very beginning. He has filed documents which are admitted by the management which are marked as Exhibit W/1 to W/14. The said copy of the application and the documents filed alongwith the application are not filed as he has stated that no receipt was given by the management. Exhibit W/1 is the advertisement published in the newspaper inviting application for appointment in the Bank. Exhibit W/2 is the letter of appointment of the offer dated 1-11-2000 to the workman. Exhibit W/3 is the letter dated 26-12-2000 of the management directing him to produce Higher Secondary School Certificate. Exhibit W/4 is the letter dated 18-1-2001 whereby the offer of appointment was terminated on account of over qualified and for concealing the above fact. Exhibit W/5, W/6, W/8, W/9 and W/12 are the applications and its reply by the management and the workman before Asstt. Labour Commissioner (Central), Shahjahanabad at the time of Conciliation proceeding. Exhibit W /10 is photocopy of marksheet of Higher Secondary School Certificate of Liladhar Prajapati which shows that admittedly he passed the Higher Secondary School Examination in the year 1986. All these documents are admitted documents. The oral and documentary evidence show that Shri Liladhar Prajapati passed Higher Secondary School Certificate before entering into temporary/casual worker and he has

terminated on concealment of the fact of over-qualified. The workman claims in his oral evidence that the management had knowledge from the beginning about his over-qualification and even then he was called for interview and he was selected and was offered for appointment but there is no documentary evidence to show that the management had knowledge of his educational qualification from before.

9. In this reference, the management has also adduced oral and documentary evidence separately. Shri Gautam Basu is Chief Manager (Administration) in the management Bank. He has come to support the case of the management. He has stated that the workman was working on daily wages from 1-7-1989 but there was no eligibility criteria for employment in daily wages. He has further stated that he came to know from the record that he was Xth pass but did not say as to when the management came to know about his qualification. He has stated that he had disclosed in the application that he was VIIIth pass. It is urged by the learned counsel for the management that he had concealed the fact that he was already Xth pass before entering into the initial engagement. It is submitted that this shows that he did not fulfil the criteria of educational qualification as in the settlement and therefore the rejection of offer of appointment by the management appears to be justified. However on the other side, it is submitted by the Learned counsel for the workman that the workman had disclosed the fact that he was Xth pass while submitting his application.

10. The management has filed documentary evidence in the case. All the documents appear to have been admitted on behalf of the workman. Exhibit M/1 is the settlement between the management of the Bank and All India SBI Staff Federation wherein at para-4(a) it shows that there is a clause that who after termination of their initial appointments acquired a higher qualification in the High School Final Examination, SCC or Matriculation or other equivalent examination in 2nd or 3rd division and not eligible for being considered for clerical appointment and have not used the said higher qualification to secure employment elsewhere and either working as such or ceased to work, will be given a chance for permanent appointment alongwith other candidates, as a special case and this will not be treated as a precedent. It is clearly understood by the Federation that in future for purpose of any type of recruitment/appointment either on temporary or permanent capacity in the subordinate cadre, only those candidates will be considered who fulfil the eligibility criteria (educational qualification viz. less than matriculation) both at the time of initial temporary appointment or permanent absorption. Admittedly this workman had over-qualified at the time of initial casual employment and had not acquired higher qualification after termination of the initial appointment as has been provided

in the settlement. Thus it is clear that he was not fulfilling the criteria laid down in the settlement.

11. Exhibit M/2 is the call letter dated 6-8-92 for interview, the application of the workman, his separate detail description and certificates. The application shows that he had disclosed the fact that in initial appointment, he was Class VIII th pass though he was Xth pass. This shows that he had intentionally concealed the fact that at the initial appointment as casual labour, he was not Xth pass. Thereafter in the separate detail description also he had disclosed that his educational qualification is VIIIth pass.

12. The workman had filed certificates alongwith application. He had filed School Transfer certificate of Higher Secondary School, Silwani where he was last studying. It is urged by the counsel of the workman that the said certificate shows that he was reading in Class XIth which itself indicates that he was Xth pass and therefore he had not concealed the fact at the time of submitting application. I donot agree with this view of the learned counsel of the workman because specially in the application it was to be disclosed about his education but he had misrepresented and concealed the fact. Moreover he had intentionally filed marksheet of middle pass only. This shows that he had misrepresented and concealed the fact in the application which was subsequently detected and was against the settlement and therefore his offer of appointment was cancelled.

13. In Reference Case No. R/183/03 also both the parties have adduced evidence. The workman Ajay Kr. Rai has come to support his case. He has stated that he submitted application for appointment as messenger-cum-guard wherein he had disclosed minimum qualification as VIIIth pass and educational qualification as Xth pass. Copy of such application is not filed to prove this fact. His evidence does not corroborate with documentary evidence and therefore he appears to be not reliable.

14. This workman has filed documents of the same set as has been filed in R/163/03. There is no document to show that at the time of submission of application, he had disclosed the fact that he was Xth pass and even then he was called for interview. Thus it is clear from the evidence adduced by the workman in this reference case that he had intentionally concealed the fact at the time of submitting application for appointment that he was Xth pass. His evidence clearly shows that he was not eligible in terms of the settlement.

15. On the other hand, the management has also adduced oral and documentary evidence in this reference case separately. The management has examined the same witness Shri Gautam Prasu as has been examined in R/163/03. His evidence has already been discussed and has supported in the same manner. The management has also

adduced documentary evidence. Exhibit M/1 is the settlement and is an admitted document. In the settlement, it shows that the following temporary employees will not be given appointment for permanent appointment in the Bank's service. Para 11 (vi) reads as follows—

“Those who had concealed material facts regarding their employment, age or educational qualification etc. from the Bank or seek appointment in more than one name or have unsatisfactory past record in the Bank or in law.”

Thus it is clear that the concealment of material facts was a criteria for disqualification in appointment.

16. Exhibit M/3 (Paper No. 12/10) is the application for appointment of Shri Ajay Kr. Rai. The application shows that he had disclosed that at the time of initial appointment as casual labour, he was VIIIth pass. There is no where in the application that he was Xth pass nor any certificate of Xth pass was filed. It is clear that this workman had also concealed the fact that at the time of initial engagement, he was Xth pass. This shows that these workmen were disqualified for permanent appointment in the Bank Service in terms of settlement.

17. The learned counsel for the workman has submitted that the workmen submitted application in the year 1991 and were called for interview in the year 1992. They were selected and offer of appointment letters were issued on 1-11-2000 and the offer of appointment letters were cancelled on 18-1-2001. It is submitted that once the candidature was accepted and was allowed to participate in the selection test and finally selected, it was not open to the management to reject the offer of appointment after the lapse of about 10 years. The learned counsel for the workman has placed reliance on the decision of the Apex Court reported in AIR 2010 S.C.2821 Union of India & ors versus Miss Pritilata Nanda wherein the Hon'ble Apex Court has held that—

Para 20 :—

“We also agree with the High court that once the candidature of the respondent was accepted by the concerned authorities and she was allowed to participate in the process of selection i.e. written test and viva voce, it was not open to them to turn around and question her entitlement to be considered for appointment as per her placement in the merit list on the specious ground that her name had not been sponsored by the employment exchange.”

Para 21 :—

“In our considered view, by denying appointment to the respondent despite her selection and placement in the merit list, the appellants violated her right to equality in the matter of employment guaranteed under Article 16 of the Constitution.”

In the instant case, the facts are different where the workmen had concealed the material facts in their application which was the pre-requisite for disqualification for considering the candidatures of the workmen. Thus the above decision is not applicable in the case.

18. Another point raised by the learned counsel for the workman that higher qualification cannot be made criteria to reject the offer of appointment. He has relied a decision reported in AIR 1986 S.C.132, H.D.Singh Vs. Reserve Bank of India & others wherein the Hon'ble Apex Court has held that —

Para 10 :—

“We thought it necessary to refer to the factual details in the case only to show our concern at the manner in which the employer in this case, the Reserve Bank of India, who should set a model for other employees being a prestigious institution, behaved towards its employees. It must have been his helpless condition and object poverty that forced the appellant to accept a job on Rs.3 per day. Still see how he has been treated. We will not be far from truth if we say that the Bank has deliberately indulged in unhealthy labour practice by rotating employees like the appellant to deny them benefits under the Industrial Law. It has disturbed us to find that the appellant was denied job because he has become better qualified. Perhaps the Reserve Bank of India and its officers are not aware of the grave unemployment problem facing the youth of this country and also not aware of the fact that graduates, both boys and girls, sweep our roads and post-graduates in hundreds, if not in thousand apply for the posts of peons. It has been our sad experience to find employers trying to stifle the efforts of employees in their legitimate claims seeking benefits under the Industrial law by tiring them out in adjudication proceedings raising technical and hyper-technical pleas, Industrial adjudication in bonafide claims have been dragged on by employers for years together on such pleas. It would always be desirable for employers to meet the case of the employees squarely on merits and get them adjudicated quickly. This would help industrial peace. It is too late in the day for this Court to alert the employers that their attempt should be to evolve a contended labour. We donot forget at the same time the fact that it is necessary for the labour also to reciprocate to prevent industrial unrest. In this case, for example, the Bank should have treated the appellant as a regular hand in List II. Instead, the Bank has by adopting dubious methods, invited from us, remarks which we would have normally avoided.”

It is clear that the fact of this case is different from the instant case where the workman acquired higher qualification during the tenure of temporary employment whereas in the instant case, the workmen had already acquired higher qualification before entering into the initial casual engagement. Moreover there was material concealment of facts in the applications for securing permanent employment in the bank services. Thus the said decision is not applicable in the case.

19. The learned counsel for the management has submitted that the workman had concealed and misrepresented the material fact of higher qualification in their applications which was pre-requisite for disqualification of their candidature. He has placed reliance on a decision passed by the Hon'ble High Court of Judicature at Jabalpur in W.A.No.6 of 2006, State Bank of India & others vrs Mahesh Prasad Shukla on 23-7-2007 wherein the Hon'ble Court has held that—

Para 11 :—

“We have referred to the aforesaid judgment only to show that possession of over qualification may be a disqualification in certain cases. It would depend upon facts and circumstances of the case. We are not inclined to enter into the said debate as the validity of the same has not been challenged. What has weighed with us in this case is that the respondent has suppressed his qualification to gain the advantage. Additionally the circular is prospective in nature and relaxation is given with regard to persons who were appointed earlier. The circular was brought on the basis of a bipartite settlement. It was obligatory on the part of the Bank to bring out a circular prescribing relaxation because of the settlement. The employees' Union, as is manifest, expressed its desire to cover certain categories of employees. That accepted by the management. The appellant worked for a short stint in four years. He could have been extended the benefit had he fallen in the category enumerated in the circular. He does not fall in that category. That apart, we repeat, at the cost of repetition that in his application he had suppressed the factum of qualification. Thus, there was a material suppression. He had not approached the employer in clean hands. Legal propriety and validity of qualification having not been assailed before us, we refrain from adverting to the same. Whether it is rational and arbitrary or not, is kept open. We have said so, as we are inclined to think one time benefit was decided to be extended by the management to the employees who had been terminated. The circular is otherwise prospective in nature. As we have not dwelled upon the justifiability

and sustainability of the circular on the parameters of rationality and reasonability it is open to challenge by any candidate who is affected in future. Suffice it to say, for the present, the respondent cannot get the benefit of relaxation having not come within the zone of consideration of the circular and further having suppressed the material fact which was within his special knowledge to gain unlawful advantage.”

In the instant case also, the workmen had concealed and suppressed the material facts to gain unlawful advantage. This shows that the action of the management is justified in cancelling their offer of appointment and therefore they are not entitled for regularization. This issue is decided in favour of the management and against the workman.

20. Issue no. II

On the basis of the discussion made above, it is clear that both the workmen are not entitled to any relief. Accordingly both references are answered.

21. In the result, a common award in both the references are passed without any order to costs.

22. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

MOHD. SHAKIR HASAN, Presiding Officer.

नई दिल्ली, 18 अगस्त, 2011

का.आ. 2469.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी.पी.डब्ल्यू. डी. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, सं.-2 चन्डीगढ़ के पंचाट (संदर्भ संख्या 68/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-8-2011 को प्राप्त हुआ था।

[सं. एल-42012/118/2003 आईआर (सीएम-II)]

डी.एस.एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 18th August, 2011

S.O. 2469.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 68/2004) of the Central Government Industrial Tribunal-cum-Labour Court No.2, Chandigarh as shown in the Annexure in the industrial dispute between the management of Central Public Works Department, and their workmen, received by the Central Government on 18-8-2011.

[No. L-42012/118/2003-IR (CM-II)]

D.S.S. SRINIVASA RAO, Desk Officer

ANNEXURE**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH****Present :** Sri A. K. RASTOGI, Presiding Officer.**Case No. I. D. 68/2004 - (Sic)**

Registered on 17-3-2005

The Zonal Secretary, All India CPWD (MRM) Karamchari Sangathan, CPWD Store Building, Sector 7-B, Chandigarh.

... Claimant

Versus

Executive Engineers, Shimla Central Electrical Divn, Central Public Works Department, Himlok Parisar, Himadri Block, CGO Building, Longwood, Shimla (HP) 171001.

... Respondent

APPEARANCES

For the Workman : Sh. Som Dutt Sharma

For the Management : Sh. Sanjay Goyal

AWARD

Passed on 27 July, 2011

Central Government vide Notification No.L-42012/118/2003-IR (CM-II) Dated 7-3-2005, by exercising its powers under Section 10 Sub-Section (1) Clause (d) and Sub-section 2(A) of the Industrial Disputes Act, 1947 (hereinafter referred to as Act) has referred the following Industrial dispute for adjudication to this Tribunal :—

“Whether the action of the management of CPWD in not regularizing the services of Sh. Gopal Kumar Sunuwar, electrical Khalasi w.e.f. 7-7-1996 is legal and justified? If not, to what relief the workman is entitled?”

Though in the reference the Zonal Secretary All India Karamchari Sangathan hereinafter, referred as Sangathan only has been made a party yet the claim statement has been filed by the said Sangathan and the concerned workman Sh. Gopal Kumar Sunuwar also,

The claimants have raised an industrial dispute stating that the workman had been employed on contract labour system as Khalasi w.e.f. 7-7-1996 by the management for attending the works of perennial nature of the management. He has always been discharging his duties under the control, direction, supervision and authority of management respondent and remained unanswerable to the management in relation to the duties assigned to him. His employment was not concurrent or simultaneous with the award of any particular contract and he continued as such under the second contractor also. Ministry of Labour vide Notification No. 690 dated 31-7-2002 has since prohibited the employment of contract labour in the process, operation or work specified in the schedule mentioned therein in the offices, establishment of Central

Public Works Department and the post of Air Conditioner operator is included in the said notification. Contract entered into between the CPWD and the contractor is sham and devised to deprive the workman of the benefits available to him under the Act. Though the workman has been working since 7-7-1996 continuously without any break in service and has, as such, completed more than 240 days in a year by working for more than 8 years but the management has not considered the workman for regularization of his services. There are vacant sanctioned post available with the management. The claimants have claimed the regularization of the workman on the sanctioned vacant post of Khalasi.

Pay parity has also been claimed in the claim statement but that is out of the purview of the reference.

The claim was contested by the management and it was denied that the workman was employed by the management w.e.f. 7-7-1996 and it was stated that he was never employed by the management directly, and no data is maintained in respect of workmen employed by the contractor for the specific works entrusted to them for specific period of time. The contractor is free to engage any workman for any duration and can also change the workman any time. The contract is awarded to a agency putting lowest rates and different agencies are awarded contracts on year to year basis. It was denied that the employment of the workman was not concurrent or simultaneous with the award of any particular contract and workman has been working under the direct supervision and control of the management. It was further stated that the contractor is responsible for proper conduct and supervision of the workman. The department can take action against the contractor for breach of the contract and not against his workmen as the department exercises no control over them. It was also stated that no data is available to suggest that the workman has completed more than 240 days in each year or to suggest that he was employed from 7-7-1996. Regarding Notification dated 31-7-2002 it was said that it is applicable only in the case where the workman is employed directly by the department on contract basis and where contract exists in the name of the workman himself. Since in the present case the workman was engaged by the contractor the Notification is not applicable to him. It was further stated that if some vacancies in the department are available, the workman cannot claim the same as a matter of right as these posts are to be filled up by following a proper procedure as per the rules and instructions of the department. Merely working on contract does not entitle the workman to have automatic absorption in regular Government service. There is no employer-employee relationship between CPWD and the workman. The department is not paying salary to him. Workman is not entitled to any relief.

The claimants filed a rejoinder also to the written statement.

In support of their respective case the parties filed affidavits and documents. On behalf of claimants the affidavit of concerned workman and of Sh. Raj Kumar was filed and tendered. While on behalf of the management affidavit of Sh. GP Bhatt was filed and tendered.

Parties filed their written arguments which along with evidence on record was carefully considered by me.

Much has been debated by the parties about the relationship of employer and employee between the management and the workman. The counsel for workman has relied on the following cases :—

1. 2007 (3) SCT 51: Zonal Manager, Food Corporation of India Vs. The workmen.
2. (2004) 1 SCC 126: Ram Singh v. Union Territory, Chandigarh.
3. (2003) 6 SCC 528: Bharat Heavy Electricals Ltd. vs State of UP.
4. (2001) 7 SCC: Steel Authority of India Ltd. & others vs. National Union Waterfront Workers.
5. CWP No. 8741 of 1998 decided on 26-5-2000 by Delhi High Court.
6. (1999) 3 SCC - 601 Secretary HSEB vs. Suresh and others.
7. CWP No. 90/2000 - Union of India vs. Desh Raj and another S.D. Sharma.

But I think that the mere fact that the workman is an employee of the management does not make him entitled for the regularization. Even if it is assumed for arguments sake that the workman had been employed by the management through a contractor, the question arises whether employment through contractor is a recognized mode of regular employment. The workman neither has pleaded so nor he has produced any evidence in this regard. Against it the management has pleaded that the vacancies in the department are to be filled up by following a proper procedure as per the rules and instructions of the department. There is nothing on record to show that the vacancies for the post of Khalasi had been advertised, the name of the workman had been sponsored by the Employment Exchange, the workman had undergone the process of selection and appointment letter had been issued to him by the department. Thus there is nothing on record to show that the workman had been employed after following due process for the recruitment. Here comes in picture the law laid down by the Apex Court in Secretary State of Karnataka Vs. Uma Devi and others 2006 (3) SLR 1. It was observed in Para 34 of the judgment :—

“34—

----- Therefore consistent with the scheme for public employment, this Court while laying down the law, has necessarily to hold that unless the appointment is in terms of the relevant rules and after a proper competition among qualified persons, the same would not confer any right on the appointee.

—.”

Long back earlier in R.N. Nanjundappa v. T. Thimmiah & Anr., (1972) 2 SCR 799 the Hon'ble Apex Court has held that regularization cannot be said to be a mode of recruitment. To accede to such a proposition would be to introduce a new head of appointment in defence of rules or it may have the effect of setting at naught the rules.

Thus appointment through contractor not being an appointment to a post according to the rules, the workman, is not entitled to regularization.

So far as the effect of Notification No. 690 dated 31-7-2002 is concerned, it prohibits the employment of contract labour. But it does not confer any right on the contract labour for absorption. The Hon'ble Supreme Court in Steel Authority of India Ltd. Vs. National Union Waterfront Workers and others (2001) 7 SCC 1 has held that Section 10 of Contract Labour (Regulation and Abolition) Act, 1970 does not imply the concept of automatic absorption of contract labour by the principal employer on issuance of abolition notification.

Therefore it is clear that even if the workman had been employed by the management through contractor, as it has been pleaded by the workman himself, it does not confer any right to be regularized on him. Obviously he is not entitled to any relief. The action of the management of CPWD in not regularizing services of the workman is legal and justified.

The reference is answered against the claimants. Let two copies of the Award be send to Central Government for further necessary action.

ASHOK KUMAR RASTOGI, Presiding Officer

नई दिल्ली, 19 अगस्त, 2011

का.आ. 2470.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय म्यूनिसिपल कॉर्पोरेशन ऑफ दिल्ली के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-1, नई दिल्ली के पंचाट (संदर्भ संख्या 171/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-8-2011 को प्राप्त हुआ था।

[सं. एल-42025/3/2011 आई आर (डी.यू.)]

जोहन तोपनो, अवर सचिव

New Delhi, the 19th August, 2011

S.O. 2470.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 171/2011) of the Central Government Industrial Tribunal-cum-Labour Court No.1, New Delhi as shown in the Annexure in the industrial dispute between the employers in relation to the management of Municipal Corporation of Delhi and their workman, which was received by the Central Government on 19-8-2011.

[No. L-42025/3/2011-IR (DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE

**BEFORE DR. R. K. YADAV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
NO. 1, KARKARDOOMA COURTS COMPLEX:
DELHI**

I. D. No. 171/2011

Sh. Ramesh Singh through
The Municipal Employees Union,
Agarwal Bhawan, G.T. Road,
Tis Hazari, Delhi- 110 054

..... Workman

Versus

The Commissioner,
Municipal Corporation of Delhi,
Town Hall Chandni Chowk,
Delhi- 110 002.

..... Management

AWARD

1. Ramesh Singh was engaged as daily wager safai karamchari by the Municipal Corporation of Delhi (in short the Corporation). He indulged in corrupt practices. A "statement of misconduct" was served upon him on 1-12-2005. He submitted his reply dated 20-12-2005 to the said "statement of misconduct", which reply was claimed to be unsatisfactory. His services were disengaged by the Corporation vide order dated 21-4-2006.

2. A dispute was raised by him before the Conciliation Officer on 1-6-2009. Conciliation proceedings failed and concluded on 17-1-2011. On 9-6-2011 an industrial dispute was raised before this Tribunal on behalf of Shri Ramesh Singh under the provisions of sub-section (2) of Section 2-A of the Industrial Disputes Act, 1947 (in short the Act). Claimant presented that a period of 45 days stood expired from the date of making his application before the Conciliation Officer. According to him, sub-section (2) of section 2-A of the empowers him to file a dispute before this Tribunal without being referred by the appropriate Government. Newly inserted provisions of sub-section (2) of Section 2-A of the Act gave a right to the claimant to

approach this Tribunal in case of discharge, dismissal, retrenchment or otherwise termination of his service, without a dispute being referred by the appropriate Government under sub-section (1) of Section 10 of the Act.

3. On receipt of notice of the claim, the Corporation filed its written statement, wherein an objection, besides others, was raised to the effect that the claim is barred by provisions of sub-section (3) of Section 2A of the Act. Ramesh Singh admitted that said fact, in his statement recorded on oath.

4. Provisions of sub-section (2) of section 2A, which empowers a claimant to approach this Tribunal in case of discharge, dismissal, retrenchment or otherwise termination of his service, without a dispute being referred by the appropriate Government under sub-section (1) of Section of the Act, are controlled by the provisions of sub-section (3) of the said Section. For sake of convenience, those provisions are extracted thus:

"(3) The application referred to in sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-section (1)".

5. A period of limitation of three years has been engrafted to present a claim under sub-section (2) of Section 2A of the Act. Period of limitation starts on the date of discharge, dismissal, retrenchment or otherwise termination of service of a workman and runs down on expiry of a period of three years thereof. Here in the case it started on 21-4-2006 and came to an end on 21-4-2009. Present dispute was raised before this Tribunal on 9-6-2011, hence it is much belated. The claimant cannot invoke the provisions of sub-section (2) of the Section 2A of the Act, since limitation has run down. His claim is discarded, being barred by time. An award is, accordingly, passed. It be sent to appropriate Government for publication.

Date : 01-08-2011

Dr. R. K. YADAV, Presiding Officer

नई दिल्ली, 19 अगस्त, 2011

का.आ. 2471.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय ऑर्डनेन्स फौक्ट्री के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नागपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एनजीपी/ 41/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-8-2011 को प्राप्त हुआ था।

[सं. एल-14012/51/1999 आईआर (डी.यू.)]

जोहन तोपनो, अवर सचिव

New Delhi, the 19th August, 2011

S.O. 2471.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT/NGP/41/1999) of the Central Government Industrial Tribunal-cum-Labour Court Nagpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Ordnance Factory and their workman, which was received by the Central Government on 19-8-2011.

[No. L-14012/51/1999-IR (DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE

**BEFORE SHRI J. P. CHAND, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR**

Case No. CGIT/NGP/41/1999

Date: 08-08-2011.

Party No.1 : The General Manager, Ordnance
Factory, Ministry of Defence, Ambazari,
Nagpur-440 021.

Versus

Party No. 2 : Shri P. L. Vyas, R/o. Plot no.1-B, Laxman
Vihar, Purohit Layout, Ambazari, Nagpur

AWARD

(Dated: 08th August, 2011)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government had referred the industrial dispute between the employers, in relation to the management of Ordnance Factory Ambazari, Nagpur and their workman, Shri P. L. Vyas, for adjudication, to the Central Government Industrial-cum-Labour Court, Jabalpur, as per letter No. L-14012/51/99-IR(DU) dated 27-10-1999, with the following schedule :—

"Whether the action of the General Manager, Ordnance Factory, Ambazari, Nagpur in removing Sh. P.L. Vyas, Grinder, skilled from service w.e.f. 05-08-1993 is legal and justified? If not, to what relief is the workman entitled?"

Subsequently, the reference was transferred to this Tribunal for disposal, in accordance with law.

2. On receipt of the reference, notices were sent to the parties for filing of their respective statement of claim and written statement, in response to which, the workman Pradeepkumar Laxman Prasad Vyas ("the workman" in short) filed the statement of claim and the management of Ordnance Factory, Ambazari ("the party no. 1" in short) filed the written statement.

The case of the workman as projected in the statement of claim is that he was in the employment of Ordnance Factory with effect from 05-10-1976, as a grinder (skilled) and he was in continuous service from the date of his appointment, with clean and excellent service record and his service conditions are governed by the C.C.S. (C.C.A) Rules, 1965 ("the Rules" in short) and by an order dated 30-09-1992, he came to be suspended under the provisions of Rule 10(1) of the Rules, pending enquiry and alongwith the order of suspension, he was not served with any charge sheet, but after the lapse of about three months, he was served with the memorandum dated 01-12-1992 alongwith the articles of charges and statement of imputation of misconduct and he submitted his reply, denying the charges leveled against him, but the party no.1 not being satisfied with the reply, ordered for a departmental enquiry, under the provision of Rule 14 of the Rules.

The further case of the workman is that on 26-09-1992, when he was on the way to leave the Factory premises after performing his night shift, the watchman checked his Scooter and at that time, Mr. Chandrikapure and Shri Raut reached the spot and opened the engine cover and removed the cloth and wheel and stated that the cloth and wheel were stolen by him and thereby caused loss to the property of the Government and Mr. Chandrikapure also pressurized him to admit the guilt, stating that in case of his admitting the charge, nothing would be happened to his services, or otherwise, he would be handed over to the police and as he was under great mental pressure and depression, he gave a confessional statement on 26-9-1992 (wrongly mentioned as 20-06-1992 in the statement of claim) and admitted the charge of theft, even though he had not committed any theft.

It is further pleaded by the workman that the enquiry officer did not consider the written statement of defence filed by him and Mr. Chandrikapure, the security officer, who was a material witness was not examined as a witness in the enquiry and even though, the confession made by him was under pressure, the enquiry officer deliberately and intentionally gave the finding against him, holding him guilty of committing the theft, which was construed as a gross misconduct in violation of Rule 31(1) of the Rules and as in his statement in the inquiry, he gave out that as Mr. Chandrikapure pressurized him to admit his guilt, it was obligatory on the part of the management and so also the enquiry officer to call Shri Chandrikapure as a witness and the enquiry was thus conducted in violation of the principles of natural justice and the enquiry conducted against him is illegal, as he was not allowed to be represented by a lawyer or by a representative of his choice, he was not supplied with the documents demanded by him, list witnesses was not supplied to him, material witnesses were not examined in the enquiry, the findings of the enquiry officer are perverted, the enquiry conducted

against him was in violation of the principles of natural justice and the punishment awarded against him is shockingly disproportionate.

The further case of the workman is that during his service tenure, he was not served with any charge sheet or memo and on the basis of the enquiry report, he was served with the removal order dated 05-08-1993, and before imposition of the punishment, his past record was not at all considered and being aggrieved by the order of punishment dated 05-08-1993, he preferred an appeal on 25-08-1993, before the Director General, Ordnance Factory Board, Calcutta and the said appeal was not disposed of and still pending and he had sent notices through his advocate on 02-06-1995 and 26-06-1996 and the notices were duly received by the Director General, but no reply was given to the said letters and management was predetermined to impose the penalty of removal, and as such, issued the charge sheet under Rule 14, instead of Rule 16 and predetermined of penalty is illegal and malafides of the party no. 1 is cleared from the fact of non-disposal of the appeal filed by him, even though it was obligatory for party no. 1 to decide the appeal and from the date of removal, he is jobless and he has no source of income and as such, he is entitled to be reinstated in service with back wages and all other consequential reliefs.

3. The party no. 1 in its written statement has pleaded inter-alia that the workman was appointed as Grinder "C" on 5-11-1976 and subsequently, he was placed as Grinder (skilled) with effect from 16-10-1981 and as per Ministry of Labour, New Delhi, letter no. L-140011/7/88-D.II (B) dated 11-05-1989, the activities of the Ordnance Factory do not constitute "Industry" as defined under the Act and the Asstt. Labour Commissioner (Central) Nagpur had also given the findings that the Act is not applicable to the dispute between the party no.1 and its workman and the workman was placed under suspension w.e.f. 30-09-1993 and a memorandum of charge sheet under Rule 14 of the Rules was served on the workman for attempted theft of government property i.e. one grinding wheel (impregnated diamond paper metallic cup wheel), while mustering out through gate no.3 of Ordnance Factory, Ambajhari in the staggering shift on 26-09-1992 at about 2100 hours and on denial of the charges by the workman, a court of enquiry was appointed to enquire into the charge and the allegation of the security officer pressurizing the workman to confess his guilt and as the workman was under great mental pressure and depression, he gave a confessional statement admitting the charges of theft are false and denied and no confessional statement was recorded on 20-09-1992 as mentioned in para 6 of the statement of claim, but the statement was recorded on 26-09-1992, the date of the incident and the workman admitted that he was taking out the material and requested to excuse him and Shri Chandrikapure was also examined as a witness in the enquiry and procedure laid down under the Rules have

been followed and there was no violation of the principles of natural justice and the merits of the case did not warrant the assistance of a legal practitioner and the workman did not request for defending his case by a representative of his choice and list of witnesses had been mentioned in the charge sheet itself, all the material witnesses were examined in the enquiry, the findings of the enquiry officer are not perverted and the punishment awarded is commensurate to the offence committed by the workman and no appeal was preferred by the workman to the Director General, Ordnance Factory Board, Calcutta through General Manager, Ordnance Factory, Ambajhari, Nagpur and as the offence committed by the workman was of a grave nature, the penalty imposed on him is just and proper. The party no. 1 has denied all the allegations made in the statement of claim. It is also pleaded that the statement of claim is barred by limitation and jurisdiction and as such, the same is liable to be dismissed.

4. It is necessary to mention here that on 27-03-2001, award was passed in this case holding the action of the management of party no. 1 to be legal and justified and the workman is not entitled to any relief. Challenging the said award, the workman filed Writ Petition No. 2228/2001 before the Hon'ble High Court of judicature of Bombay, Nagpur Bench and the Hon'ble Court by order dated 29-11-2001, set aside the award and remanded back the case with a direction to frame preliminary issue regarding the validity of the domestic enquiry and then to decide the matter. According to the direction of the Hon'ble High Court, preliminary issue regarding the validity of the domestic enquiry was framed and taken for consideration and by order dated 26-04-2005, the enquiry was held to be validly conducted.

5. In the written argument, it has been submitted by the learned advocate for the workman that under Rule 14 of the Rules, major penalty can be imposed, while under Rule 16, minor penalty can be imposed and issuance of the charge sheet under Rule 14 indicates that even before the enquiry, the party no. 1 had decided to remove the workman from the services and the findings of the enquiry officer are totally perverted, as he directly jumped to the conclusion that the workman admitted his guilt, without recording the statement of the witnesses and the conclusion was drawn on the basis that the workman refused to open the panel of his scooter and on that ground, it is not correct to jump to the conclusion of theft and there is no evidence on record to show that the workman concealed the grinding wheel and as there is no evidence showing the involvement of the workman in commission of the attempted theft, the findings recorded by the enquiry officer are totally perverted and the workman was pressurized by Shri Chandrikapure to sign the statement and the workman had no knowledge as to who tied the wire around the engine of his scooter and the attempted theft is not a misconduct and the penalty imposed against

the workman is shockingly disproportionate to the charges.

6. The party no.1 did not advance any argument in this case.

7. It is necessary to mention here that the workman filed an affidavit on 21-04-2009 in support of his claim. As there is no scope for adducing evidence in respect of the perversity of findings and quantum of punishment and the said questions are to be decided on the evidence available on record of the enquiry proceedings, the said affidavit cannot be taken into consideration.

8. Admittedly Rules 14 and 16 of the Rules provide the procedure for imposing major penalties and minor penalties respectively. As the alleged misconduct of attempting to commit theft by the workman is a major misconduct, it was natural for the party no. 1 to take action against the workman under Rule 14 of the Rules. From initiation of the departmental proceedings and submission of the charge sheet under the provisions of Rule 14 of the Rules, it cannot be said that the management had predetermined to impose the punishment of removal of the workman from the services. Except removal from services, other punishments are included in major penalties. As it was alleged that the workman committed a panel offence, the initiation of the proceeding for imposing one of the major penalties under Rule 14 by the management is justified.

9. After perusal of the materials on record of the departmental proceeding, I find that there is no force in the contention raised by the learned advocate for the workman. It is found that the enquiry officer after analyzing the evidence produced in the enquiry and giving cogent reasons has rightly arrived at the conclusion that the charges against the workman have been proved. In the enquiry, the witnesses including Shri Chandrikapure were examined by the management. According to the workman, Shri Chandrikapure pressurized him to admit his guilt and accordingly he gave a statement admitting his guilt. However, in the cross-examination of Shri Chandrikapure not a single-question was put to him in that respect. The workman also in his statement has admitted his guilt before the enquiry officer. So from the materials on record and for the reasons mentioned above, it is held that the findings of the enquiry officer are not perverted.

10. It is found that, the charge of attempting to commit theft of government property, which is a major misconduct, has been proved against the workman in a properly held departmental enquiry. The workman was working in Ordnance Factory, so it was necessary for him to maintain absolute integrity. However, he did not maintain the integrity and tried to commit theft of Government property. Hence, the imposition of the punishment of removal from service of the workman cannot be said to be shockingly disproportionate to the proved grave

misconduct. Hence, there is no scope to interfere with the punishment. Hence, it is ordered:

ORDER

The action of the General Manager, Ordnance Factory, Ambazari, Nagpur in removing Sh. P.L. Vyas, Grinder, skilled from service w.e.f. 05-08-1993 is legal and justified. The workman is not entitled to any relief.

J.P. CHAND, Presiding Officer

नई दिल्ली, 19 अगस्त, 2011

का.आ. 2472.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार टेलीकॉम फैक्ट्री के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कोलकाता के पंचाट (संदर्भ संख्या 12/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-8-2011 को प्राप्त हुआ था।

[सं. एल-40012/351/1999 आई आर (डी यू)]

जोहन तोपनो, अवर सचिव

New Delhi, the 19th August, 2011

S.O. 2472.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 12/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Kolkata as shown in the Annexure in the industrial dispute between the employers in relation to the management of Telecom Factory and their workman, which was received by the Central Government on 19-8-2011.

[No. L-40012/351/1999-IR (DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL

AT KOLKATA

Reference No. 12 of 2000

Parties : Employers in relation to the management of The Chief General Manager, Telecom Factory

AND

Their workmen

Present: Mr. Justice Manik Mohan SarkarPresiding Officer

Appearance:

On behalf of the : Mr. R. N. Bag, Advocate.
Management

On behalf of the : Mr. S. Mukherjee, Advocate.
Workmen

State: West Bengal Industry: Telecom

Dated: 4th August, 2011

AWARD

By Order No L-40012/351/99/IR (DU) dated 9-2-2000 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

“Whether the action of the management of Telecom Factory, Gopalpur (W.B.) in terminating the services of Sh. Sunil Kumar Maity w.e.f. 1-10-98 is legal and justified? If not, to what relief the workman is entitled?”

2. The story of the workman in his written statement of claim is that he was engaged in the Company's factory at Gopalpur in June, 1995 as a Mazdoor in its Inspection Department where Mr. Chandra Chur Ghosh was the incharge and in May, 1996 he was engaged in the Town Inspection Department under Mr. T.K. Chawdhury and he was in service in the said Company till he was illegally terminated with effect from 1-10-1998. Earlier the workman was a trade apprentice in the management Company for two years during the period from 31-3-1984 to 30-3-1986. The workman was to work for the Support Bracket (Assembling), 15 Meters S.S. Mast repairing, the working of assembling the hubs and other welding iron as and when required according to the necessity of the work. In course of his employment he was accountable to the officers of the Company under whom he used to work and he was to record attendance in the attendance register of the Company and also used to draw salary through Company's format of voucher named SCG-17 in regular course from the date of his joining. The workman was issued with identity card for entering into the factory premises and working there and the management being satisfied with his performance, supply of milk, sugar, barley, soap, lemon, squash was introduced to him by the management, to equip him for facing health hazards. The workman used to collect instruments/apparatus required for performing his daily work from the Chemist/Incharge and used to return all those instruments/apparatus after completion of job. He was also provided with individual locker facility by the management. The workman used to draw his wages on monthly basis calculated @ of Rs.60 per day, but the enhanced rate of Rs.98.50 per day was not given to him. The management stopped payment to the concerned workman all on a sudden from November, 1997 and did not allow him to put his signature on the prescribed attendance register of the Company though he was allowed to work the regular job inside the factory premises as usual. Subsequently he was allowed to put his signature in the attendance register from 1st April, 1998 and monthly wages was also being paid to him as per SEG-17 form till before illegal termination from service. No reason was shown to the workman as to why he was not allowed to put his signature in the attendance register

from November, 1997 to March, 1998 or about the stoppage of payment of monthly wages to him during that period. During that period he was asked to put his signature on certain printed sheets naming attendance register from the Month of November, 1997 till March, 1998 and he was paid monthly salary @ Rs.60 per day from one Mr. Prabir Acharya who was a contractor with whom the workman had no concern and such contractor was never introduced by the management to this workman nor any intimation was given to the workman about such introduction of any contractor during the period from November, 1997 to March, 1998 nor any intimation was given to him that during that period his service was transferred under any such contractor. Appearance of the name of the Company as Drillco Company of India is alleged to be fictitious and the workman was asked by Shri Prabir Acharya on 15-5-1998 to put his signature under pressure and threat. There was no slightest role of any outside organization during the period from November, 1997 to March, 1998 in the Company for controlling, coordinating and/or leading the duties performed by the workman and the alleged contractor was a sham and a fake one and was projected by the Company only to deprive the workman concerned to get the benefit as a regular workman of the Company. While on duty on 30-9-1998, the workman was told at 2 P.M. by the Director of the Company Mr. S.K. Satharathi that the workman was not required in the service and his service was terminated with effect from 1-10-1998 though no formal letter of termination showing reason of such illegal termination was issued to him and he was not offered any compensation as envisaged in the Industrial Disputes Act, 1947. No charge-sheet was issued to him nor any domestic enquiry was initiated before such termination of his service. Being aggrieved the workman concerned raised industrial dispute before the Assistant Labour Commissioner (Central) and on failure of conciliation procedure, his matter was referred to this Tribunal from the Government of India.

3. In the written statement of the management Telecom Factory, the allegations made in the written statement of claim have been denied and it is stated that the workman concerned was engaged at the Telecom Factory at Gopalpur as daily-rated labour/workman with effect from December, 1995 and was continued till April, 1996 for a particular job and he was again engaged on daily-rated basis with effect from February, 1997 till April, 1997 and again from April, 1998 to September, 1998 as per requirement of particular work to be carried out in the factory from time to time. The management denied about existence of any Inspection Department under the control of Shri Chandra Chur Ghosh and that one project was undertaken by Shri Ghosh being the Assistant Manager for inspection, packing supplies and shipment of certain produces of the factory to foreign countries and this workman was engaged as helper/labourer to assist the

officer since the Government does not sanction man-power for such temporary project. Since Shri Maity was engaged in the concerned Telecom Factory, Gopalpur which was very casual and temporary in nature, no question of his termination from 1st October, 1998 arises. It is further stated that there was no provision of appointment of trade apprentices and the engagement of the workman concerned was not continuous in nature, as his service was used "as and when required" basis which was admitted by the workman in his written statement. Accountability of the workman was an incidence of employment whether he was daily-rated or regular employee in the management factory and since the Government premises are protected place, no unauthorized entry is permitted and for which gate passes were issued to the workman to facilitate him to make entry into the factory premises. It is claimed that photo identity cards are issued to the regular employees and not to daily-rated labourers. It is claimed by the management that during the period from November, 1997 to March, 1998 the workman was daily-rated labour of a private contractor and so making of payment to him by the management during that period does not/cannot arise. The workman was a daily labour of a private contractor engaged by the management Telecom Factory, Gopalpur for specific maintenance purpose and the work for which the workman was engaged was temporary, casual and of intermittent nature as admitted by him and the work came to an end with effect from 30-9-1998 and accordingly he was informed by the contractor about non-requirement of his service. It is claimed that question of giving notice did not arise since no notice was warranted in the case of the workman since there was no termination of the workman concerned by the management, and so compliance of specific provision under the Industrial Disputes Act, 1947 did not arise.

4. As usual the rejoinder of the workman is in the nature of denial of the statement made by the management of Telecom Factory, Gopalpur in its written statement par-wise and nothing new has been introduced therein and so detail mention of the contents of the rejoinder is not needed.

5. Admittedly the workman, Sunil Kumar Maity was engaged by the management Telecom Factory from time to time in different months during the years 1995, 1996, 1997 and 1998 till he was finally asked not to come again to do the job for the management Factory as claimed by the workman. It is also admitted that the workman concerned was a daily wage casual labour. The management side claimed that the service of the workman was taken as and when so required for a particular job and when the said job was over, he was not given with any other work and was discontinued and a fresh engagement subsequently was given to him for another period and for another particular job.

6. In this context, the Ld. Advocate Mr. Bag for the management Telecom Factory submitted that the officer

of the Telecom Factory, Mr. Chandra Chur Ghosh, Assistant Manager, under whom the workman was engaged as a helper, was to do the job of export side of the Telecom Factory and the range of work was from inspection of goods, packaging and shipment and the said work was occasional and temporary in nature. Mr. Bag further submitted that the workman was from time to time, engaged only to assist Mr. Ghosh in such work for which he was in-charge and that the engagement of the workman concerned was in the nature "as and when required" basis. Mr. Bag further submitted that besides his engagement by the management Telecom Factory from time to time in different period of time, sometimes he worked as a contractor's workman through the period from November, 1997 to March, 1998 and during that period he did not work as a daily-rated labour engaged by the management Telecom Factory though he was doing the job in the Telecom Factory as a labour supplied by such contractor firm.

7. On the other hand, Mr. Saibal Mukherjee, Ld. Advocate for the workman submitted that workman concerned was in continuous and uninterrupted service in the Telecom Factory of the management since February, 1997 to the last day of September, 1998 and thereby he worked for 298 days within 12 months before he was terminated from service with effect from 01-10-2008 when he was asked not to come in the work again. In respect of doing the job under a contractor as alleged from the side of the management Telecom Factory, Mr. Mukherjee submitted that such a contractor was introduced to defeat the claim of the workman concerned to acquire continuous service directly under the Telecom Factory even if as daily wage earner and also to defeat his claim of some legal rights accrued therefrom.

8. In respect of getting protection under Section 25F of the Industrial Disputes Act, 1947, Mr. Mukherjee submitted that the workman concerned has worked for more than 240 days in 12 calendar months immediately before he was terminated and in support of the same he has produced extract copies of different attendance registers in relation to the attendance and work done by the workman concerned. He referred to the copies of the attendance registers which are Exts. W-6 and W-7 in the present reference and therefrom Mr. Mukherjee tried to prove that the present workman actually worked for 240 days in 12 calendar months immediately before his termination from the engagement.

9. Before going through the contents of Exts. W-6 and W-7 one thing remains to be discussed here as there was a conflicting claim in between the parties in respect of the first engagement of the workman in relation to the months of such engagement. The workman side claimed that he was engaged for the first time in March, 1995 while the management claimed that actually the workman was engaged for the first time in the month of December, 1995

and not in the month of March, 1995 as he claimed. Among the exhibits W-6 and W-7, Mr. Mukherjee drew my attention to the alleged extracts of the attendance register which starts from March, 1995. On going through the same it is found that the said extract of attendance register is confusing one since there is no mention as to which office or establishment such attendance register is attached. Secondly, it is found that the attendance register contains names of only two workmen, namely, Kartick Ch. Bhattacharya and Sunil Kr. Maity and none else. Thirdly, the said attendance register nowhere shows any endorsement of any authority before whom that attendance register was being maintained. The other extracts of attendance register sheet which is Ext. W-7 it is found that the said attendance register was for the month of November, 1997, December, 1997, January, 1998, February, 1998 and March, 1998 and in the said sheets it is found that someone has authenticated the said attendance register for one M/s. Drill Co. India and no person being an officer of the management Factory made any counter signature thereon. The management side earlier had taken a plea that the workman concerned, during his engagement in the Telecom Factory of the management at Gopalpur, worked for sometime for a contractor firm and the witness of the management (MW-1) stated that such contractor firm was Drill Co. India. It is fact that the workman side raised a plea that the introduction of the story of such contractor firm for supplying worker as its labour, is a concocted story and a camouflage act on the part of the management but the document which has been produced by the workman concerned as his document and relied upon being Ext. W-7, itself shows that the attendance register was being maintained in the office of the M/s. Drill Co. India and not before the management Telecom Factory. In respect of other attendance register, excepting the attendance register for the period from March, 1995 to November, 1995, no controversy arose since the management side has stated that the workman concerned worked in the Telecom Factory since December, 1995 in different periods from time to time, as and when required. The plea of the workman that he worked in the Telecom Factory since March, 1995 cannot be accepted since the said fact has not been properly proved by the workman as Ext. W-6 is not sufficient since the said document does not show any authenticity from any authority nor the management side has admitted that fact. The attendance registers as produced by the workman, taken together in different points of time, will not show that the workman ever worked for 240 days or more in 12 calendar months before his termination on and from 1-10-1998 as alleged. On the other hand, the management side in the Annexure of Ext. M-1, attached statement of particulars of number of days and payment made, shows that the present workman worked for 20 days in December, 1995 and for 92 days from January, 1996 to December, 1996. It is also shown therein that the workman concerned worked for 201 days during

the period from January, 1997 to December, 1997 (though in respect of noting his working for the months of November and December, 1997 the entry was made as "Nil"). In respect of his working in the year 1998, it is found that the statement of particulars of work done by the said workman was given from April, 1998 to September, 1998 and there he has been shown to have worked for 151 days. If meticulously the entitlement of the working days is taken for the workman, it is found that immediately before his termination, workman concerned actually worked for 151 days during the period of 12 calendar months before his termination. In this context, if the attendance of the workman concerned during the period from November, 1997 to March, 1998 is taken together along with the work done by him under the management Telecom Factory for the period from April, 1998 to September, 1998 it is found he has done more than 240 days work or, to be precise, for 255 days. But, then the workman is to show that the work done by him during the period from November, 1997 to March, 1998 was never under a contractor but it was directly under the management Telecom Factory and the attendance shown to be maintained by M/s Drill Co. India was in the nature of fake one to defeat the claim of the workman concerned. Unfortunately, the said attendance register is not coming from the side of the management Telecom Factory but it has been produced by the workman himself as the document relied upon by him.

10. In this context, one thing may be brought for discussion in reference to the oral evidence adduced by the workman concerned when he stated that "From November, 1997 to March, 1998 salary was being paid to him by one Prabir Acharya on the basis of an attendance sheet on which he used to take my signature." This workman as WW-1, once stated during cross-examination that in his case, payment was being made on taking signature on ACG-17 vouchers and also his signature was being taken on a big register but such attendance and payment through ACG-17 vouchers has not been produced in the present reference to bring transparency in the claim made by the workman concerned.

11. In this context, the reference of decisions made On behalf of the workman by Mr. Mukherjee, Ld. Advocate as reported in 1978-II-LLJ 397 (SC) and (2000) 4 S.C.C. 245 is of little value since though the Hon'ble Apex Court has opined that the removal of veil would show that the principal employer was actual employer of the employee concerned and not the contractor, would have been applicable in the present matter also, if the workman side could show that the introduction of the contractor in between the management Telecom Factory and the workman was done by the management itself to defeat the claim of the workman concerned. The workman has become enthusiast in producing documentary evidence and in that process he has produced the attendance register maintained by the 'contractor firm during the concerned period.

3295 GI/11-23

12. Further, one thing may be recalled that the management Telecom Factory has stated initially that the workman concerned was engaged in the Telecom Factory as a daily-rated worker for a particular job and when that job was over, his service was not needed further for certain period and thereafter when again another particular job was needed to be done, further engagement of the worker concerned was made after some period and for a limited period. So, it is found that the nature of work of the workman concerned was temporary and for a particular work and when the work was over, automatic termination of the work of the workman was there. In that case, the protection of provision under Section 25F of the Act cannot be claimed by the workman concerned. In this context, reference may be given to a decision reported in (2009) 1 S.C.C. 20 wherein the Hon'ble Apex Court held that

"It is trite that the burden of proof that the claimant was in the employment of the particular management primarily lies upon the person who claims so but the degree of proof, varies from case to case. It is neither feasible nor advisable to lay down an abstract rule to determine the employer - employee relationship. It is essentially a question of fact to be determined by having regard to the cumulative effect of the nature of material placed before the adjudicatory forum by the claimant and the management."

In other decisions reported in (2006) 1 S.C.C. 121 and also in (2009) 17 S.C.C. 326 the Hon'ble Apex Court held that the workman engaged for various spells of fixed periods and the workman if retrenched at the end of each period, in all orders of engagement, specific period has been mentioned and engagement had merely been temporary in nature, said case being squarely covered by Section 2(oo), Section 25F would be in applicable. It has further been viewed in the later decision that in a seasonal work, the respondent cannot be said to have been retrenched in view of what is stated in Section 2(oo) (bb) of the Act. In another decision reported in (2006) 13 S.C.C. 28 it has been held by the Hon'ble Court that a workman appointed on daily wage basis, termination of service of such workman as a result of non-renewal of contract of employment on the expiry of term under a stipulation on that behalf contained therein would not attract definition of term 'retrenchment'.

13. In view of all the discussions made above, I am of the view that the nature of work of the workman concerned with the job for a particular project and the completion of such work would automatically ends employment of the workman concerned and thereby the provision of Section 25F will not attract even though the workman concerned can show that he worked for more than 240 days. In the present reference, the workman neither has proved that he worked for more than 240 days in 12 calendar months immediately before his termination as alleged nor he could show that his engagement was an engagement simpliciter though on daily wage basis and

termination of employment would attract Section 2(oo) and Section 25F of the Act.

14. In view of all the discussions made above, I am of the view that the termination of the workman concerned by the management of the Telecom Factory with effect from 1-10-1998 cannot be said to be illegal and unjustified and in consequence the workman concerned is not entitled to any relief.

Dated, Kolkata,
The 4th August, 2011.

JUSTICE MANIK MOHAN SARKAR, Presiding Officer

नई दिल्ली, 19 अगस्त, 2011

का.आ. 2473.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार टेलीकॉम फैक्ट्री के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कोलकाता के पंचाट (संदर्भ संख्या 14/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-8-2011 को प्राप्त हुआ था।

[सं. एल-40012/347/1999-आईआर (डीयू)]

जोहन तोपनो, अवर सचिव

New Delhi, the 19th August, 2011

S.O. 2473.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 14/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Kolkata as shown in the Annexure in the industrial dispute between the employers in relation to the management of Telecom Factory and their workman, which was received by the Central Government on 19-8-2011.

[No. L-40012/347/1999-IR (DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Reference No. 14 of 2000

Parties : Employers in relation to the management of
The Chief General Manager, Telecom Factory

AND

Their workmen.

Present: Mr. Justice Manik Mohan Sarkar, Presiding Officer

APPEARANCE :

On behalf of the : Mr. R.N. Bag, I.d. Advocate.
Management

On behalf of the : Mr. K. Chatterjee, I.d. Advocate
Workmen

State: West Bengal.

Industry: Telecom.

Dated: 10th August, 2011.

AWARD

By Order No.L-40012/347/99-IR(DU) dated 10-2-2000 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

“Whether the action of the management of Telecom Factory, Gopalpur (W.B.) in terminating the services of Sh. Badal Adhikary, Driver w.e.f. 1-1-99 is legal and justified? If not, to what relief the workman is entitled?”

2. In the written statement of claim, the workman concerned has stated that he was an employee of the Telecom Factory at Gopalpur and he was employed against a permanent vacancy as a Driver for driving factory car for officers and workers attached to the factory with effect from 11th December, 1996 on daily-wage basis. The workman concerned was used to be paid wages at end of every month calculating the number of days worked by him though the rate of daily wage was below the prescribed rate. It is claimed that the work done by the workman concerned was regular and permanent in nature. The duty hours of the workman concerned was from 9 A.M. to 5 P.M. and sometimes he worked beyond 5 P.M. upto 8 to 9 P.M. and overtime allowance were being paid to him as per payment of overtime rules of the management. In this process, the workman claimed to have worked for 300 days from December, 1996 to November, 1997 or more than 240 days in a block of 12 calendar months and he also worked for 316 days from December, 1997 to November, 1998 and he worked for 26 days in December, 1998. The workman began to claim the status of permanent employee after completion of one year's service and also claimed the benefit of grade and scale available to a permanent employee of the factory. Instead of making him permanent, the service of the workman was terminated by the management after he work on 1-1-1999 without any notice or show cause and also without any charge-sheet and payment of compensation following the provision of Section 25F of the Industrial Disputes Act, 1947. So the workman prayed for reinstatement with full back wages.

3. In the written statement of reply the management has denied that the workman was an employee of the Telecom Factory. It is stated that he was engaged purely on ad-hoc basis and on daily wages as a Driver to drive the vehicle of the factory and he was actually engaged 'as and when required basis' initially for one month from 11th December, 1996. The management has also stated that the workman concerned was engaged in the Gopalpur Telecom Factory for 279 days in the year 1997 and 309 days in the year 1998 and though he was being paid @ Rs.81 per day on 'no-work-no-pay', the workman never raised any objection. It is further stated by the management that on experimental basis the second shift of production was

started at the factory at Gopalpur to meet the requirement as per enhanced production programme and there was no sanctioned post of any additional driver and that till deployment of surplus employees from the factory of the management, the work-load was managed by making arrangement of daily-rated driver on no-work-no-pay basis and also with a condition to discontinue without notice and the engagement of the workman concerned on daily-rate was made only after approval. The management also stated that there was no specific time of duty hours of the workman concerned since his engagement in the factory and duty hours were allotted as per requirement from time to time and he was being paid with extra money when he was engaged beyond the working hours. It is claimed that there was no sanction of staff by the management and subsequently the surplus of Alipore was redeployed as there was a ban on fresh recruitment. It is also claimed that since the workman concerned was engaged for a particular job on completion of the same, he was disengaged and so the said disengagement cannot be called a 'retrenchment' from service enabling the workman concerned to get the benefits of provision under Section 25F of the Act. It is also claimed that the workman was a casual employee of the factory and never recruited through proper channel upon following the recruitment rules of the management.

4. In the pleading, the management admitted that the workman concerned worked for more than 240 days in a year specifically both in the years 1997 and 1998 and his disengagement has not been denied by the management as claimed by the workman concerned. It is stated by Mr. R.N. Bag, the Ld. Advocate for the management that though the project in the factory was started in 1992, the factory was started in the year 1996 and in course of such project work, only one post of Driver duly sanctioned by the authority was there and one D.N. Hembram being an ex-serviceman was appointed to the said sanctioned post of Driver. It is also further stated by Mr. Bag that after starting production in the Telecom Factory, management requested the directorate for sanctioning the post of an additional Driver, but such sanction was not granted and that a condemned vehicle was transferred to the factory at Gopalpur and on getting the same repaired and making workable condition, the use of the said vehicle was started on experimental basis at Gopalpur to meet the requirement as per enhanced production programme in the new unit of the factory. It is further submitted that the appointment letter of the workman concerned dated 06-12-1996, lost its force on expiry of the period of one month since 11-11-1996, the date of joining on purely temporary, ad-hoc and daily wage basis. It is also submitted by Mr. Bag that the expenditure to be incurred for payment of daily rate worker was of contingent nature of expenditure and was provided from the contingent fund of the establishment and all such payments were being made through receipt

voucher in ACG-17 supported by previous sanction of the competent authority for the said item and the payment of the workman concerned was also made through such ACG-17 under the head of "other charges" prepared against sanctioned memo. It has been admitted by Mr. Bag that the workman, Badal Adhikary was disengaged from 1-1-1999 as no requirement for the post of Driver was there because of re-deployment of surplus staff from Alipore as per direction of the D.O. T. Directorate. There was further argument from the side of the management on the plea of regularization of the workman concerned to the permanent vacancy of the factory, but in the present reference the main factory underline is that whether the termination of the workman concerned was legal and justified. So, discussion in the present reference should be concentrated only on that factor of termination of workman concerned and whether the workman concerned can claim it to be illegal and unjustified and not otherwise.

5. It has already been stated earlier that the management has admitted that the workman concerned worked for more than 240 days on two occasions in the years 1997 and 1998 without any break and it is admitted that he has worked as such till before his disengagement by the management Telecom Factory. It is rather a retrenchment act on the part of the management since the provision of Section 25F of the Act specifically suggested that the employer should issue a notice or pay in lieu of such notice and compensation before he is retrenched from service of the employer. It is categorically admitted by the management that such provision under Section 25F of the Act, at the time of termination of the workman, was not complied with by the employer Telecom Factory and so without discussing the submission made on behalf of the workman concerned, relying upon the submission from the side of the management by way of admission in the pleading, I am of the view that the management has not complied with the provision of Section 25F of the Act at the time of termination of the workman, Badal Adhikary. The management concerned was bound to follow the recruitment rules for the purpose of appointing the workman to the post concerned and so, any such recruitment as being violative of such rules cannot be entertained since such appointment had no legal force. In such case, since the workman concerned was not appointed or engaged in a sanctioned post, his engagement should have been illegal. In the present case, the workman concerned was appointed or engaged on ad-hoc and daily rate basis as an additional Driver in a work on experimental basis and he was continued to be employed as such till before he was disengaged and reasons shown was for re-deployment of surplus staff of some other units of the management Telecom Factory. In this context, a reference can be made to a decision reported in (2006) 5 S.C.C. 173 (Municipal Council, Sujapur v. Surinder Kumar) wherein the Hon'ble Court held that in similar circumstances grant of monetary

compensation would sub-serve the interest of justice and the Hon'ble Court directed in the said decision that instead of reinstating the workman concerned with back wages, the management appellant was directed to pay compensation of Rs. 50000. Further in another case, reported in (2007) 9 S.C.C. 353 (Uttaranchal Forests Development Corpn. v. M.C. Joshi) the Hon'ble Court has held

"The question, however, would be as to whether in a situation of this nature, relief of reinstatement in service should have been granted. It is now well-settled that the relief of reinstatement with full back wages would not be granted automatically only because it would be lawful to do so. For the said purpose, several factors are required to be taken into consideration, one of them being as to whether such an appointment had been made in terms of statutory rules."

".....Keeping in view the nature and period of service rendered by the respondent herein as also the period during which he has worked and the fact that he had raised an industrial dispute after 6 years, interest of justice would be made if the impugned judgment awarding reinstatement with back wages, are substituted by an award of compensation for a sum of Rs.75000 in favour of the respondent."

In another decision of the Hon'ble Apex Court, reported in (2007) 9 S.C.C. 748 (M.P. Admn. v. Tribhuban) the Hon'ble Court held the similar view of substituting the direction of reinstatement with full back wages by way of compensation to the workman concerned.

7. In such view, I think the justice will be deemed to have been sub-served if the employer is directed to pay a sum of compensation money to the workman concerned even at the stage of post termination.

8. In respect of computation of the amount of compensation, it is found that the workman concerned was being paid @ Rs.81 per day and the present proceeding was initiated in the year 2000, i.e., almost 11 years have already been passed. If the workman concerned would have been employed with the management Telecom Factory, he would have earned around Rs. 30000 per year by way of wages at pre-existing wages per day. Further, the workman concerned was terminated without such benefit at the time of his termination. There is no evidence from the side of the management that the workman concerned was engaged otherwise during this period and in that case, he should be compensated sufficiently to face real termination without reinstatement. For that purpose, I think Rs.50000 will be sufficient compensation to be paid by the management to the workman.

9. So, I am of the view that the termination of the workman concerned with effect from 1-1-1999 was illegal

and unjustified. In lieu of order for reinstatement and back wages in favour of the workman, I think payment of compensation of Rs. 50000 (Rupees fifty thousand only), as viewed earlier, would be sufficient and the management Telecom Factory is directed to pay the said amount of Rs. 50000 to the workman within three months from the date of publication of the Award.

An Award is passed accordingly.

Dated, Kolkata, the 10th August, 2011.

JUSTICE MANIK MOHAN SARKAR, Presiding Officer

नई दिल्ली, 19 अगस्त, 2011

का.आ. 2474.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार गोल्डन लॉयन कैण्टीन के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं. 2, चण्डीगढ़ के पंचाट (संदर्भ संख्या 67/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-8-2011 को प्राप्त हुआ था।

[सं. एल-14012/46/2004-आईआर (डीयू)]

जोहन तोपनो, अवर सचिव

New Delhi, the 19th August, 2011

S.O. 2474.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 67/2004) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Chandigarh as shown in the Annexure in the industrial dispute between the employers in relation to the management of Golden Lion Canteen and their workman, which was received by the Central Government on 19-8-2011.

[No. L-14012/46/2004-IR (DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

PRESENT : Sri A. K. RASTOGI, Presiding Officer.

Case No. I.D. 67/2004 (Sic)

Registered on 7-2-2005.

Sh. Niranjan Singh S/o Sh. Karam Singh,
Village Rajpura, P.O Masimbal,
Tehsil Jagadhri (Yamuna Nagar),
Jagadhri.

...Applicant

Versus

The Chairman, Canteens Managing Committee,
Golden Lion Canteen, HQ PH & HP (I),
Sub-Area Canteen Cell, Ambala Cantt.,
(Haryana).

...Respondent

APPEARANCES:

For the Workman : Sh. Manjit Dhiman

For the Management : Sh. C. I. Sharma

AWARD

Passed on 28th July, 2011

Central Government vide Notification No. L-14012/46/2004-IR(DU) Dated 10-1-2005, by exercising its powers under Section 10 Sub-Section (I) Clause (d) and Sub-section 2(A) of the Industrial Disputes Act, 1947(hereinafter referred to as Act) has referred the following Industrial Dispute for adjudication to this Tribunal :—

“Whether the action of the management of Golden Lion Canteen, Ambala Cantt. in terminating the services of Sh. Niranjan Singh, Ex-Care Taker w.e.f. 28-2-2003 by inflicting disproportionate punishment upon the workman is just and legal? If not, so what relief is the workman entitled to?”

The workman has raised an industrial dispute stating that he was appointed as Care Taker by the management on 1-4-2001. His services were terminated vide order dated 26-2-2003 after an enquiry in an illegal and wrongful manner and against principle of natural justice. He was not supplied certain documents which he required for filing written reply. He was not allowed to be represented by some qualified and expert assistance and the enquiry was conducted in English which was not known to him. He was not provided any opportunity of cross-examination. His statement was prepared on his sign blank paper. He had been forced to sign blank paper by Military Police. Documents were not legally proved during the enquiry. The punishing authority did not apply its mind and considered the points raised by him in reply to the charge sheet and show cause notice. His appeal was also rejected mechanically without applying the mind. He has claimed his reinstatement with continuity of service and other attending benefits.

The claim was contested by the management. The jurisdiction of the Tribunal was challenged on the ground that the management is not an industry and the claimant is not a workman under the provisions of the Act. According to the management the workman had been charged for selling 12 bottles of whisky at the rate of Rs. 200 per bottle against CSD rate of Rs. 184 per bottle, to a civilian Sh. Pradeep Bhardwaj. His services have been terminated in a legal and proper manner after conducting proper

domestic enquiry according to the principles of natural justice. The workman had been charge sheeted in the enquiry and full opportunity had been provided to him to defend his case. The charges against the workman are based on Military Police investigation report. The workman in his reply to the charge sheet had indirectly admitted the charge of selling the liquor. Not satisfied with the reply of the workman, an enquiry was set up, and Enquiry Officer was appointed. The workman was supplied the list of witnesses and of documents relied on by the prosecution and he was advised to engage defence assistance. He never raised any objection about the fairness of the enquiry and conduct of the Enquiry Officer. After the submission of the Enquiry Officer a show cause notice was issued to workman along with copy of enquiry report and proposed punishment. He was also given personal hearing. The workman replied the notice and sought an interview to the competent authority where he confessed the charges levelled against him and pleaded for mercy. The competent authority after going through the enquiry findings and the record of the case terminated the services of the workman. The workman filed an appeal which was dismissed after due consideration. The termination of the workman is legal and proper and in accordance with law. It was denied that signature of the workman had been obtained on a blank paper. According to the management, the workman had voluntarily signed the statement and admitted the charges and he has no case.

A replication to the written statement of the management was filed by the workman.

In support of his case, workman filed his affidavit and made a statement while on behalf of management affidavit was filed and statement was recorded of Lt. Colonel Sh. P.C. Vohra (retired) Manager, Golden Lion Canteen at Fatehgarh Sahib.

The workman did not turn up for arguments despite notices sent to him by registered post on 9-7-2010 and 6-8-2010. Hence the ex-parte arguments of the management counsel were heard.

As it has been stated above the management has challenged the jurisdiction of this Tribunal to adjudicate the dispute under reference. Management also moved an application dated 13-8-2009 and relying on the judgment of the Hon'ble Supreme Court in RR Pillai (dead) LRs Vs. Commanding Officer Hq. SAC (U) and ors. dated April 28, 2009, it was argued that in view of the law laid down by the Apex Court the Central Government is not competent to refer the dispute to this Tribunal and this Tribunal has no jurisdiction to decide the dispute.

In RR Pillai's case (supra) the Apex Court overruled the judgment in Union of India Vs. M. Aslam 2001 (1) SCC 720 wherein the canteen employees of the Unit Run Canteens had been held to be Government employees. In

RR Pillai's case (supra) it was observed that URCs are not funded from the Consolidated Fund of India. Refundable loans can be granted by the CSD to URCs at the rate of interest laid down by it from time to time on the application of URCs seeking financial assistance. URCs can also buy from other non-public funds. URCs purchase articles from CSD depots and it is not an automatic supply and relation between URCs and CSDs is that of buyer and seller and not of principal and the agent. It was also observed that there was no statutory obligation on the part of the Central Government to provide canteen services to its employees. The profits generated from the URCs are not credited to the consolidated funds but are distributed to the Non-Public Funds which are used by the units for the welfare of the troops. The Hon'ble Supreme Court held that Aslam's case was not correctly decided and the employees of the URCs are not Government servants.

I agree with the learned counsel for the management that since the workman is not a Government employee, hence the Central Government is not competent to refer the dispute to this Tribunal.

Learned counsel for the management also relied on the judgment of a Division Bench of Hon'ble Mysore High Court in Management of Station Canteen Cubbon Road Bangalore Vs. The Presiding Officer Labour Court Bangalore and another 1972 Lab. IC 776 wherein it was held that a canteen which is run with the sole object of rendering assistance or aid to Defence Personnel, merely because it makes profit, cannot be regarded as "industry" within the meaning of Section 2(J) and a dispute arising between the management of the canteen and workmen cannot be regarded as "industrial dispute".

In view of the above legal propositions I hold that the dispute under reference is not an industrial dispute and the reference also is not competent. The reference is answered accordingly. Let two copies of the Award be send to Central Government for further necessary action.

ASHOK KUMAR RASTOGI, Presiding Officer

नई दिल्ली, 19 अगस्त, 2011

का.आ. 2475.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी. सी. लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय, धनबाद नं. 1 के पंचाट (संदर्भ संख्या 64/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-8-2011 को प्राप्त हुआ था।

[सं. एल-20012/187/2005-आईआर (सी-1)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 19th August, 2011

S.O. 2475.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

Government hereby publishes the Award (Ref. No. 64/2006) of the Central Government Industrial Tribunal-cum-Labour Court-I, Dhanbad, as shown in the Annexure in the industrial dispute between the employers in relation to the management of M/s. C.C. Ltd. and their workman, which was received by the Central Government on 19-8-2011.

[No. L-20012/187/2005-IR (C-I)]

D.S.S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. I, DHANBAD

In the matter of a reference U/s. 10(1) (d) (2A) of I.D. Act.

Reference No. 64 of 2006

Parties : Employers in relation to the management of
Swang Washery of M/s. C.C. Ltd.

AND

Their workmen

Present : Shri H. M. Singh, Presiding Officer

Appearances :

For the Employers : Shri D.K. Verma, Advocate

For the Workman : Shri R. N. Ganguly, Advocate

State: Jharkhand

Industry: Coal

Dated, the 12th August, 2011.

AWARD

By Order No.L-20012/187/2005-IR(CM-I) dated 12-6-2006 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-sec. (1) and sub-sec. (2A) of Section 10 of the I.D. Act, 1947, referred the following dispute for adjudication to this Tribunal :

SCHEDULE

“Whether the demand of the National Coal Organisation Employees’ Association from the management of Swang Washery of M/s. C.C. Ltd. to provide employment to Shri Pankaj Kumar, Dependent of Late Sunderlal Mallah, Ex-Workman of Swang Washery under the provision of para 9.3.2. of NCWA-VI and to provide monetary compensation to Smt. Anjani Devi W/o the deceased employee @ Rs. 3,000 per month in the light of para 9.5.0 (Clause-III) of NCWA-V and VI for the period from the date of death of the workman till dependant’s appointment are legal and justified? If so, to what relief the said Shri Pankaj Kumar and Smt. Anjani Devi are entitled?”

2. The case of the concerned workman, late Sunderlal Mallah, is that he was a permanent employee of Swang Washery Project working as Driver. He died while in service on 15-3-99 i.e. during the period of operation of NCWA-VI.

After the death of Sunderlal Mallah the second wife of the deceased employee, namely, Smt. Munni Devi submitted application for employment under Para 9.3.2 of NCWA-VI alongwith all necessary documents with the consent of first wife, namely, Anjani Devi. The employer kept the application pending for more than a year and thereafter rejected the same vide letter dated 29/30-9-2000 on the ground that the second wife is not entitled to employment while first wife is living. The employers did not give any employment to the dependent of deceased on 29/30-9-2000 and the situation of offering no employment as per sub-clause (iii) of Para 9.5.0 of NCWA-VI occurred on 29/30-9-2000 when the above provision of NCWA-VI was very much in existence under which the only son of Late Sunderlal Mallah, namely, Pankaj Kumar, who was a minor on that date was entitled to be placed in the leave roster and employment on attaining the age of 18 years and the first wife of the deceased employees, namely : Smt. Anjani Devi is entitled to the monetary compensation of Rs. 3,000 per month from the date of death of Late Sunderlal Mallah till Pankaj Kumar is provided with employment, the first wife of the deceased employee, Anjani Devi had submitted an application vide her letter dated 8-6-2002 addressed to Project Officer, Swang Washery for employment of her son, Pankaj Kumar, who had attained the age of 18 years by that time. The employers vide their letter dated 16-7-2003 addressed to the A.L.C.(C), Hazaribagh, admitted in Paras 4 and 5 that the union had a genuine claim for employment of Pankaj Kumar and had advised the workman to submit a fresh claim. In compliance to the above another application for employment alongwith necessary documents was again submitted but without any result. The union finding no alternative had to raise an industrial dispute before the A.L.C.(C), Hazaribagh which ended in a failure, which resulted in the present reference.

It has been prayed that the Hon’ble Tribunal be pleased to pass an award in favour of the union by directing the employers to provide employment Pankaj Kumar, dependent of Late Sunderlal Mallah, Ex-worker of Swang Washery under Para 9.3.2 of NCWA-VI and to provide monetary compensation to Smt. Anjani Devi W/o the deceased employee @ Rs. 3,000 per month in the light of Para 9.5.0 (Clause III) of NCWA-V and VI for the period from the date of death of the deceased workman till dependent’s employment.

2. The case of the management is that the demand of union does not constitute an industrial dispute as no employer-employee relationship exists between Pankaj Kumar, Smt. Anjani Devi and the management of Swang Washery of M/s. C.C. Ltd. Sunder Mallah was an employee of Swang Washery and died on 15-3-99. At the time of death of Late Sunderlal Mallah NCWA-V was in vogue. After his death one Muni Devi applied for employment

under the provision of NCWA. The matter was examined by the management and on examination it was revealed that Smt. Munni Devi is not legally married wife of Late Sunderlal Mallah. As such, finding no merit in the application the management regretted the application of Munni Devi. Smt. Anjani Devi W/o Sunderlal Mallah never applied for keeping the name of Pankaj Kumar in Leave Roster and payment of monetary compensation after the death of the deceased employee. There is a limitation prescribed for providing employment under NCWA. The Hon'ble Supreme Court in catena of cases held that provisions of compassionate appointment is not a mode of recruitment and such type of appointment cannot be granted after the belated stage. From the record it appeared that Pankaj Kumar was not eligible for keeping his name in the Leave Roster as per the provisions of NCWA as he has not completed the age prescribed in NCWA-V. The NCWA-VI come into existence in the year 2000. So the demand of the petitioner is neither legal nor justified.

In rejoinder the management has submitted that the provision of 9.5.0. (iii) of NCWA-VI was effective only from 1-1-2000 and the provision was not effective on the date when the deceased employee died. It has also been submitted by the management that the application of Smt. Muni Devi was considered and it was revealed that she is not legally married wife of the deceased employee and accordingly her application was rejected. The second wife is not a legally married wife and is not entitled for employment. Smt. Anjani Devi had not applied for monetary compensation. At the time of death of his father, Pankaj Kumar was minor and her mother never applied for keeping his name in the Leave Roster.

It has been prayed that the Hon'ble Tribunal be pleased to hold that the demand of the union is neither legal nor justified and the concerned persons are not entitled to any relief.

4. In rejoinder to the written statement of the management, the union has stated almost same facts as have been stated in their written statement.

5. Sri P. K. Biswas has produced himself as WW-1 on behalf of the workman and he has proved documents as Exts. W-1, W-2, W-3 and W-4.

The management has produced MW-1, Manoj Emmenuel Tudu and has not proved any document.

6. Main argument advanced on behalf of the workman is that Sunderlal Mallah died while in service on 15-3-99 and as per Para 9.3.2 of NCWA-VI his son Pankaj Kumar is entitled for employment and his mother, Smt. Anjani Devi is entitled to the monetary compensation of Rs. 3000 per month from the date of death of Sunderlal Mallah till the employment of his son, but the management is not giving the same, on the ground that the claim was

made very late for employment of Pankaj Kumar and monetary compensation to his mother. In this respect it has been argued that the second wife, Smt. Munni Devi demanded employment which was regretted by the management as she is not legally married wife of Late Sunderlal Mallah.

In this respect the claimant has filed Ext. W-1, school leaving certificate and also filed Ext. W-2 which shows that he is the son of Late Sunderlal Mallah. He was minor at the time of his father's death, so he could not claim for employment at that time and Ext. W-3 proves that the mother of Pankaj Kumar is the wife of Late Sunderlal Mallah and Ext. W-4 is service Excerpt which shows that Pankaj Kumar is the son and Smt. Anjani Devi is wife of Late Sunderlal Mallah. So there is no doubt that at the time of death of his father, he was minor, so he could not claim for employment.

7. In this respect MW-1, Manoj Emmenuel Tudu, stated in his cross-examination that we are giving monetary compensation to Anjani Devi. There is a provision for applying for monetary compensation. I do not remember from what date the NCWA-VI came into effect. I do not remember the date when application filed by the wife of Late Sunderlal Mallah was rejected.

8. Considering the above facts it shows that the management admitted that Sunderlal Mallah was permanent employee of Swang Washery and died on 15-3-99 and Pankaj Kumar is the son of Late Sunderlal Mallah as per Ext. W-4, which is document of the management. So it shows that the claimant, Pankaj Kumar is entitled for employment as per Para 9.3.2 of NCWA because he was minor at the time of death of his father, so he could not be given employment. As the management's witness, MW-1 admitted that monetary compensation is given to Smt. Anjani Devi. But it has been denied on oath by the witness on behalf of the workman.

9. In view of the above facts and circumstances, I hold that the demand of the National Coal Organisation Employees' Association from the management of Swang Washery of M/s. CCL to provide employment to Pankaj Kumar, dependent of Late Sunderlal Mallah, under the provision of Para 9.3.2 of NCWA-VI is legal and justified and hence Pankaj Kumar is entitled for employment. The concerned lady is entitled to get compensation till death. The management is directed to provide employment to Pankaj Kumar within 30 days from the date of publication of the award.

This is my Award.

H. M. SINGH, Presiding Officer

नई दिल्ली, 19 अगस्त, 2011

का.आ. 2476.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी. सी. सी.

एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण धनबाद नं. 1 के पंचाट (संदर्भ संख्या 23/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-8-2011 को प्राप्त हुआ था।

[सं. एल-20012/187/2002-आईआर (सी-1)]
डी.एस.एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 19th August, 2011

S.O. 2476.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 23/2003) of the Central Government Industrial Tribunal-cum-Labour Court-1 Dhanbad, as shown in the Annexure in the industrial dispute between the employers in relation to the management of M/s. B.C.C. L, and their workman, which was received by the Central Government on 19-8-2011.

[No. L-20012/187/2002-IR (C-I)]

D.S.S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, DHANBAD

In the matter of a reference U/s. 10(1) (d) (2A) of
the I.D. Act, 1947

Reference No. 23 of 2003

Parties : Employers in relation to the management of
Lodna Area of M/s. BCCL.

AND

Their workmen

Present : Shri H. M. Singh, Presiding Officer

APPEARANCES :

For the Employers : Shri D.K. Verma, Advocate.

For the Workmen : Shri B. N. Singh, General
Secretary, N.C.W.C.

State: Jharkhand

Industry: Coal

Dated: 9th August, 2011

AWARD

By Order No.L-20012/187/2002-IR(C-I) dated 24-1-2003 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-sec. (1) and sub-sec. (2A) of Section 10 of the I.D. Act, 1947, referred the following dispute for adjudication to this Tribunal :

“Whether the demand of National Coal Workers Union from the management of Lodna Area of M/s. BCCL that the workman, Shri Kashi Nath Kurmi

should be regularised as “Tyndal” w.e.f. 12-7-92 is proper and justified? If so, to what relief the workman is entitled?”

2. In this case Shri B. N. Singh, General Secretary of the Union, appearing on behalf of the concerned workman on 25-11-2010 submitted by filing a petition that the concerned workman does not want to contest the case and prayed to close the case.

3. In such prayer being made on behalf of the concerned workman, I render a ‘No Dispute’ Award in the present reference case.

H. M. SINGH, Presiding Officer

नई दिल्ली, 19 अगस्त, 2011

का.आ. 2477.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी. सी. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 1, धनबाद के पंचाट (संदर्भ संख्या 295/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-8-2011 को प्राप्त हुआ था।

[सं. एल-20012/127/2000-आईआर (सी-1)]

डी.एस.एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 19th August, 2011

S.O. 2477.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 295/2000) of the Central Government Industrial Tribunal-cum-Labour Court Dhanbad, as shown in the Annexure in the industrial dispute between the employers in relation to the management of M/s. B.C.C. L, and their workman, which was received by the Central Government on 19-8-2011.

[No. L-20012/127/2000-IR (C-I)]

D.S.S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. I, DHANBAD

In the matter of a reference U/s. 10(1) (d) (2A) of
I.D. Act, 1947

Reference No. 295 of 2000

Parties : Employers in relation to the management of
Angarpathra Colliery of M/s. BCCL.

AND

Their workmen,

Present : Shri H. M. Singh, Presiding Officer

APPEARANCES:

For the Employers : Shri H. Nath, Advocate.

For the Workmen : None

State: Jharkhand

Industry: Coal

Dated: 8th August, 2011.

AWARD

By Order No.L-20012/127/2000-IR(C-I) dated 27-9-2000 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-sec. (1) and sub-sec. (2A) of Section 10 of the I.D. Act, 1947, referred the following dispute for adjudication to this Tribunal :

“Whether the action of the management of M/s. BCCIL Angarpathra Colliery, Dhanbad, In dismissing Sri Sanjay Lokar, Mining Loader is justified? If not, to what relief is the concerned workman entitled?”

2. The reference case was received in this Tribunal on 4-10-2000. But till now none has appeared on behalf of the concerned workman in spite of giving several adjournments and also registered notices were sent. It, therefore, appears that neither the concerned workman nor the sponsoring union is interested to contest the case.

In such circumstances, a ‘no dispute’ award is passed.

H. M. SINGH, Presiding Officer

शुद्धि-पत्र

नई दिल्ली, 24 अगस्त, 2011

का.आ. 2478.—का.आ. संख्या 616(अ) दिनांक 23 मार्च, 2011 द्वारा भारत के राजपत्र, भाग-II, खण्ड-3, उप-खण्ड(ii) में प्रकाशित भारत सरकार, श्रम और रोजगार मंत्रालय की अधिसूचना के हिन्दी रूपान्तर की पाँचवीं पंक्ति में 24 नवम्बर, 2010 के स्थान पर 29 नवम्बर, 2010 प्रतिस्थापित किया जाए।

[सं. एस-38025/23/2010-एसएस-1]

नरेश जायसवाल, अवर सचिव

CORRIGENDUM

New Delhi, the 24th August, 2011

S.O. 2478.—In the Notification of the Ministry of Labour and Employment published in the Gazette of India, Part-II, Section 3, Sub-section (ii), vide number S.O. 616(E) dated March 23, 2011, in the English and Hindi version of the Notification published in line 6, substitute 24th Day of November, 2010 as 29th Day of November, 2010.

[No. S-38025/23/2010-SS.I]

NARESH JAISWAL, Under Secy.

नई दिल्ली, 25 अगस्त, 2011

का.आ. 2479.—केन्द्रीय सरकार संतुष्ट है कि लोकहित में ऐसा अपेक्षित है कि भारतीय विमान प्राधिकरण में सेवाओं को जिसे औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की प्रथम अनुसूची की प्रविष्टि 27 के अन्तर्गत निर्दिष्ट किया गया है, उक्त अधिनियम के प्रयोजनों के लिए लोक उपयोगी सेवाएं घोषित किया जाना चाहिए।

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (द) के उप खण्ड (6) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए तत्काल प्रभाव से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[सं. एस-11017/3/2011-आई आर (पीएल)]

चन्द्र प्रकाश, संयुक्त सचिव

New Delhi, the 25th August, 2011

S.O. 2479.—Whereas the Central Government is satisfied that the public interest so requires that the services in the industry engaged in the ‘Airport Authority of India’ which is covered by item 27 of the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947), should be declared to be a Public Utility Service for the purpose of the said Act.

Now, therefore, in exercise of the powers conferred by sub-clause (vi) of clause (n) of Section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares with immediate effect the said industry to be a Public Utility Service for the purpose of the said Act for a period of six months.

[No. S-11017/3/2011-IR(PI.)]

CHANDER PRAKASH, Jt. Secy.